

## CHAPTER VI

### LABOR STANDARDS

#### Introduction

All CDBG-funded activities must follow the rules for Labor Standards that apply to most Federally-supported programs. Missouri CDBG grant recipients are encouraged to obtain a copy of HUD 1344.1 Rev-1 Federal Labor Standards Compliance in Housing and Community Programs; HUD's "Making Davis-Bacon Work" (separate publications for contractors and public bodies); and the U.S. Department of Labor publication, "Prevailing Wage Resource Book" (11/02) for detailed information regarding Federal labor standards requirements. The Procurement chapter of this manual contains additional labor-related provisions, regulations, and requirements.

Labor Standards requirements for contracts paid in whole or in part with Missouri CDBG program funds are primarily contained in four statutes:

- Davis-Bacon and Related Acts (Federal)
- Copeland Anti-Kickback Act (Federal)
- Contract Work Hours and Safety Standards Act (Federal)
- Missouri Prevailing Wage Law (State)

Some of the key provisions of each law are:

The Davis-Bacon Act, extended to Federal funding recipients contracting for construction work by approximately 60 "related acts," requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the U.S. Department of Labor (USDOL) and are issued in the form of Federal wage decisions for each classification of work. The law applies to construction and major alteration or repair contracts over \$2,000. The USDOL publishes rates for Missouri that covers Heavy and Highway, Building, and Residential construction categories.

The Copeland Anti-Kickback Act makes it a criminal offense for any person to induce any person employed in the construction, completion, or repair of any public building, public work, or building, or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under the terms of his employment. **This Act also requires the submission of weekly payrolls and statements of compliance by all contractors in a format that meets the requirements of 29 CFR Section 5.5.**

The Contract Work Hours and Safety Standards Act requires that workers receive overtime compensation at a rate of 1½ times their regular hourly wage after they have worked 40 hours in a work-week. This applies to all CDBG-funded construction contracts over \$10,000.

**Note:** *Overtime requirements under Federal Fair Labor Standards Act (FLSA) remain applicable, and State overtime requirements sometimes differ from these rules.*

The Missouri Prevailing Wage Law (RSMo Chapter 290) is comparable to the national legislation in requiring prevailing wages computed by the Missouri Division of Labor Standards to be paid to all laborers and mechanics on public works construction projects.

**Note:** *The State Annual Wage Order may detail additional overtime requirements.*

## REQUIREMENTS AND PROCEDURES

The major requirements recipients need to follow include:

1. Obtain the applicable Federal wage determination **through your area Compliance Specialist**;
2. Use the Annual Wage Order and incremental increases supplied by the Missouri Division of Labor Standards through their web site [www.dolir.mo.gov](http://www.dolir.mo.gov) in response to requests from interested parties;
3. Include both Federal and State wage determinations in all bid documents and contracts;
4. Include all other applicable labor standards provisions in bid documents and contracts;
5. Monitor contracts to ensure compliance with labor standards requirements;
6. Maintain a labor standards activity file.

### Obtaining Wage Determinations

To receive a copy of the Federal wage determination, submit the Request for Wage Determination **to our office** no fewer than 10 days prior to the bid call date. The Missouri Division of Labor Standards publishes the State Annual Wage Order and incremental increases, and provides that information on their Web site to parties requesting specific counties (Sections).

Work with the project architect/engineer and prospective bidders/contractors to make certain the correct type of Federal determination (Heavy/Highway, Building, or Residential) is being used, and that all job classifications anticipated for the project are included. As an example, Building rates issued for many rural counties often do not include many of the trades used in construction of CDBG-funded facilities such as community centers, senior citizen centers, ADA public building modifications, etc.

#### **NOTE THIS IMPORTANT INFORMATION!**

**In the event the Federal wage determination does not address all job classifications that will be utilized for your specific project, grantees should complete the HUD form “Report of Additional Classification and Rate” (located within this chapter) and submit to the Labor Standards Compliance Officer, who in turn will forward the request to the USDOL.**

**Rules for using the Federal determination:** Ten days before bid opening, contact our office to see if the rates you were initially provided have been modified. If so, we will send you the new decision and you must provide potential bidders (plan holders) with the new rates. **Federal wage determinations in effect 10 days prior to bid opening are intended to be “locked in” and remain in effect for the life of the project.** However, they are subject to updating if the contract is not awarded within 90 days following the bid opening, or construction has not begun within 90 days of the award of the contract. In that event, the determination in effect at the time the contract is actually signed, or when *bona fide* construction work begins, must be obtained from DED and made effective through an addendum to the construction contract.

**Rules for using the State determination:** Make certain that the document used in the bid specifications includes the latest Annual Incremental Increase published for that county. Once the bid call is issued and advertisements are published, **that Annual Wage Order remains in effect for the duration of the contract.** Failure to include the complete current determination in the project contract will result in the grant recipient being held liable for any difference in wage rates. The wage determination must be included in all bid documents and contracts. In addition, when the project is

advertised for bid, a "Prevailing Wage Project Notification" (PW-2) must be filed with the Missouri Division of Labor Standards (an example is provided elsewhere in this chapter), and grantees are encouraged to review other related documents such as the Prevailing Wage Law Check-Off list, and the Affidavit of Compliance with the Prevailing Wage Law which contractors must submit to the MoDLS prior to requesting final payment of public contract funds. These forms are provided on-line with the Annual Wage Order.

**COMPLIANCE TIP: Remember the difference in wage rate verification procedures between the Federal and State rules.**

### **Some Specific Questions and Answers That Can Affect Your Project**

*How do we know when to use Heavy and Highway, Building, or Residential rates?*

The decision on which type of wage rate schedule applies to a project can be complex and must often be decided on a case-by-case basis. In addition, the rules governing when to use Heavy Construction (Heavy/Highway) or Building rates differ between the Federal and State interpretations as follows:

**Federal:** All Agency Memorandum No. 130, issued by the U.S. Department of Labor in 1978, defines Building construction as being “the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies.” If certain construction activities on a project can be classified in this manner, the key is in determining whether Building construction activities represent more than an “incidental” portion of the contract. Twenty percent of project cost is commonly used as a rough guide in making this decision, hence the phrase “80/20 rule.”

An example would be construction of a new wastewater treatment plant that would ordinarily be considered Heavy/Highway work, but also includes an enclosed structure to house some of the equipment and controls. In that event, the grantee must consider whether the estimated cost of the building exceeds 20% of the total projected project cost. If not, you may assume that the preponderance of project activities falls under the Heavy/Highway classification and use those rates exclusively in the project contract. If it does, then multiple schedules must be used with Heavy/Highway rates in force for the heavy construction activities, and Building rates used for the portion of the contract directly involved in construction of the sheltered enclosure.

**State:** According to 8 CSR 30-3.040 of the implementing rules for the Division of Labor Standards, Building construction is defined in part as “building structures, including modification, additions or repairs, or both, to be used for shelter, protection, comfort, convenience, entertainment or recreation, or for protection of people or equipment.” Also, included in this definition is excavation work for the building; sidewalks, driveways, and parking lots in immediate proximity providing direct access to the building; extending water, sewer, and other utilities by work inside a building and to the curb line; and work on water and wastewater treatment plants within the fence line.

The Annual Wage Order includes both Building and Heavy construction schedules for each county. Grantees must determine the type of work being done, and where the work is taking place in relation to the overall scope of the project, to know which schedule should be used. Note that the Heavy construction page does not include certain classifications (such as Ironworkers), meaning the Building construction page must be referenced for that particular trade regardless of the actual type of work being done.

**Bottom Line:** Regardless of which wage schedule is considered in force based on the varying definitions of construction activity, contractors must **always** pay the higher applicable prevailing wage rate to each employee on a CDBG funded project. If you have a project where it is unclear which decision to use, contact the LSCO for clarification. Recipients are also encouraged to obtain a copy of “Occupational Titles of Work Descriptions” (8 CSR 30-3.060) published by the Missouri Division of Labor Standards and read the descriptions carefully.

*What if we use our own people to do the work?*

Laborers and mechanics employed directly by the grantee are known as “Force Account” employees and are not subject to prevailing wage requirements. Government-program workers or other temporary workers who are *bona fide* employees of the grantee and are being utilized as force account labor are also not subject to the prevailing wage requirements. Check with our office for limitations.

*Are certified payrolls required from unincorporated owner/operators?*

All laborers and mechanics involved in construction, **including unincorporated owner/operators and sole proprietors**, must receive no less than the Federal prevailing wage for hours worked on the project. The rule is based on an interpretation from HUD and the USDOL that all persons working in construction trades are considered to be employees, and therefore subject to the provisions of Davis-Bacon and Related Acts (DBRA). This will occasionally result in an owner paying himself the prevailing wage and certifying the applicable information on a standard payroll format. An alternate method of demonstrating compliance for so-called “working subcontractors,” such as self-employed backhoe operators, electricians, etc., is to include them on the prime contractor’s payroll report.

It should be noted that the Missouri Division of Labor Standards has long maintained the position that “shareholders of a corporate contractor” must be listed on the payrolls and paid prevailing wage rates by the corporate contractor if the shareholder is performing Public Works construction. This is consistent with the Federal interpretation. If **not** incorporated, an owner/operator is exempt **under State rules only** from submitting certified weekly payrolls to the grantee. However, based on a recent Missouri Southern District Court of Appeals decision, anyone performing work on a public works project (not just employees) is covered by the Missouri Prevailing Wage Law (PWL). The decision indicates that “workmen” on a public works project, regardless of employee/independent contractor status, are covered by the provisions of the PWL and must be paid the applicable prevailing wage.

*How will the State rule regarding Pipefitters be enforced on CDBG projects?*

Grantees should refer to an article submitted by the Missouri Division of Labor Standards for inclusion in the October 2002 edition of the DED Community Development division newsletter, which has been reproduced elsewhere in this chapter. The provisions of the State’s definition regarding use of the Pipefitter classification on public works projects continues to be monitored for compliance by CDBG staff through desk reviews and in the field.

*The State and Federal wage determinations for my project each require Heavy Equipment Operators to be paid \$28.37 per hour. However, the Federal decision lists a higher basic rate (\$20.92) and lower fringe rate (\$7.45) than the State wage order (\$20.57 basic plus \$7.80 in fringes). Does this make a difference in figuring overtime pay?*

Yes, it could. The following is an example: Presume that the State requires overtime based on the Operators working daily hours in excess of the maximum allowed in that specific Annual Wage Order for their classification. The Federal rule (Contract Work Hours and Safety Standards Act) does not mandate overtime pay if no more than 40 hours were worked during the weekly reporting period. In that situation, only the State determination would be used to figure the required compensation (time

and one-half of the basic rate plus fringe benefits at the straight time rate). Overtime pay would be \$30.86 ( $\$20.57 \times 1.5$ ) plus \$7.80, for a total of \$38.66.

If the Operators worked in excess of 40 hours in a workweek, however, the CWHSSA rules also apply. Overtime must be figured at time and one-half of the **higher basic pay rate** plus the corresponding straight time fringe benefit rate. In this event, the Federal decision would become applicable; therefore, overtime pay would be \$31.38 ( $\$20.92 \times 1.5$ ) plus \$7.45, for a total of \$38.83.

**Note:** The same principle is used to determine overtime pay when the State determination reflects the higher basic rate for an occupational classification. Based on the potential complexity of this type of situation, grantees are encouraged to contact your area Compliance Specialist with specific questions.

*How do prevailing wage requirements apply to Economic Development projects?*

All labor standards requirements under the CDBG program are applicable to projects funded under the Economic Development categories, including Industrial Infrastructure grants, Speculative Building loans, and Microenterprise loans, except where prior notification has been given.

**COMPLIANCE TIP:** For Action Fund loans, DBRA may be in effect if the purchase and installation of equipment is involved, especially in cases where the building must be altered to accommodate the equipment. Check with our office for applicability based on the specific circumstances of the project.

### **Verifying Contractor Eligibility**

Prior to the award of the construction contract, contact your area Compliance Specialist to verify that the proposed contractor is not included on the U.S. General Services Administration's List of Parties Excluded from Federal Procurement or Non-Procurement Programs, HUD's Limited Denial of Participation list, and the MoDLS contractor debarment list. Failure to confirm this information could result in very expensive consequences if the contractor does appear on one or more of the lists. At that time the grantee should also request confirmation of the contractor's standing to do business in the state from the Missouri Secretary of State's office (including the Certificate of Authority to Do Business when an out-of-state firm is involved) and verify that the contractor's Surety company is properly licensed in Missouri. Grantees are encouraged to consult the Procurement chapter for additional requirements.

### **Use of Apprentices on CDBG projects**

Contractors on Federally funded construction projects have the opportunity to utilize apprentices if employed and individually registered in a *bona fide* apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training (BAT). The Missouri Division of Labor Standards also recognizes BAT as the official State apprenticeship agency. Apprentices who have exceeded their first 90 days of probationary employment must be individually registered with the BAT to receive less than full prevailing wage for the classification worked, reflected as a percentage of the basic hourly rate required and/or fringe benefits specified in the approved plan and in accordance with their level of progression. Contractors are limited in the number of apprentices used in a particular trade during a project, based on a formula that determines the allowable ratio of apprentices to journeymen.

To verify *bona fide* apprenticeship status for an employee on a CDBG project, the contractor must provide a copy of the Apprenticeship Agreement from the BAT that includes contact information and the signature of the apprentice, the sponsoring program, and the registration agency, along with the wage scale to be paid based on the trade, length of term, and experience level defined as time in the program or number of training hours completed. A sample Apprenticeship Agreement form is found elsewhere in this chapter.

### **Contractual Provisions and Certifications**

USDOL regulations require all construction contracts subject to labor standards provisions to contain standard language and certifications. This manual provides the Federal Labor Standards Provisions and all certifications and conditions that are to be included in construction contracts **regardless of the participation of other funding sources such as MoDNR or USDA-Rural Development**. Contractor and subcontractor certifications concerning Labor Standards and Prevailing Wage requirements must be signed prior to contract award and indicate the intent of the contractor and subcontractor to comply with labor standards provisions.

### **Documenting Contractor Compliance**

Local responsibility for enforcing labor standards provisions does not stop with award of the construction contract. Once construction work is scheduled to begin, recipients must ensure that the following activities take place:

- Submit the Start of Construction Notice form to DED. All information needed to complete this report should be available following the pre-construction meeting.

#### **NOTE THIS IMPORTANT INFORMATION!**

**Provide copies of payrolls from each prime contractor and subcontractor (including the Statement of Compliance) to DED for verification following local review and approval. All contractors must submit weekly payrolls throughout the term of the contract. The standard payroll form or its equivalent may be used. Any evidence of underpayment or other discrepancies in the payrolls addressed at the local level should be reported to DED along with corrective actions taken. Grantees should not request drawdown of CDBG construction funds until payrolls matching the contractor's invoices for payment have been received and approved in accordance with these procedures.**

- On-site inspections are an important part of the process in ensuring contractor compliance by (a) confirming that posters explaining employee rights and the wage decisions are displayed on the job site, and (b) verifying that correct prevailing wages are being paid through the employee interview process. The Record of Employee Interview (found elsewhere in this chapter) is provided for use when the local Labor Standards designee or another responsible party interviews a representative number of employees and job classifications in order to achieve a reasonable judgment of compliance. On-site inspections and employee interviews are encouraged at least monthly for the prime contractor, and whenever subcontractors are at work on the site. To ensure objectivity, the local labor standards designee (not the contractor) should select the employees to be interviewed. The interview is to be carried out with the employee, not with the contractor. The interviewer should question the employees to obtain the information necessary to complete items #1-9 on the Record of Employee Interview, and then observe the employee at work for a period of time and complete item #10. The information from the interview should then be compared to the applicable wage determinations and the weekly contractor payrolls.

<b>NEW PROCEDURE:</b>	<b>Employee interviews may also be conducted by mail if necessary. However, this process should be limited to situations such as subcontractors working on the job site for only a brief period of time, making personal interviews infeasible.</b>
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### **What to Do When A Violation Occurs**

Violations of Federal and State labor standards requirements are usually discovered by investigating worker complaints, monitoring payroll records, conducting employee interviews, or similar efforts. When labor standards violations are suspected, there are standard procedures to follow depending on the nature of the offense:

1. If the total amount of the underpayment of Federal prevailing wages is over \$1,000, or there is reason to believe that the violations are aggravated or willful, the grantee must furnish a report of investigation to DED. We will forward this information to the appropriate HUD area office, which will take follow-up actions and supply a report to the U.S. Department of Labor if appropriate.
2. If the underpayment is \$1,000 or less, and there is no reason to believe that the violations are aggravated or willful, the responsibility of the grantee is to make certain full restitution has been paid and documented. Sufficient documentation of compliance would include an employee-signed Affidavit of Wage Restitution; a copy of the check for back payment issued by the company, and corrected payrolls.
3. If the violation specifically involves the overtime provisions of the Contract Work Hours and Safety Standards Act, liquidated damages of \$10 for each day the employee was eligible but not paid overtime must also be assessed. Contact our office to decide if further recommendations should be made to the HUD area office.
4. Violations of the provisions of the Missouri Prevailing Wage Law should be reported to the Division of Labor Standards following the procedures established by that agency. For more information contact MoDLS at 573/751-3403, or access their Web site at [www.dolir.mo.gov/lr](http://www.dolir.mo.gov/lr).

### **Labor Standards File Records**

A labor standards compliance file should be established for each construction contract in order to maintain records of the following:

- written procedures (Request for Wage Determination, etc.)
- project correspondence (Federal wage rate checked 10 days prior to bid opening, contractor eligibility verified, Start of Construction Notice submitted to DED, etc.)
- bid documents (spec book)
- State and Federal wage determinations
- contractor/subcontractor certifications
- executed contract documents
- weekly payrolls (first payroll approved by DED, contractor's fringe benefit plan if applicable)
- phone and E-mail records
- minutes taken at the preconstruction conference
- documentation of employee interviews conducted
- field inspection reports (monitoring letters, etc.)

### **DED MONITORING**

The BCS Compliance Team staff at DED monitors for labor standards compliance through correspondence and other types of communication with the grantee, and by at least one site visit. Your area Compliance Specialist will use the Labor Standards field review form found in the Project Administration chapter of this manual to verify compliance with applicable provisions and determine the need for corrective actions or technical assistance if necessary. The following is a list of specific actions the grantee should take to reflect compliance in this area:

1. All grant recipients must appoint a local Labor Standards Compliance Officer, who will be responsible for oversight in this area. That person may be the Community Development Director, grant administrator, or any other responsible individual. Their name, telephone number, and E-mail address must be provided where indicated on the Start of Construction Notice.
2. Obtain a copy of HUD 1344.1 Rev-1 Federal Labor Standards Compliance in Housing and Community Programs; HUD's "Making Davis-Bacon Work" (separate publications for contractors and public bodies); the U.S. Department of Labor publication, "Prevailing Wage Resource Book" (11/02); and any other related materials including Web sites, in order to build a local resource of labor standards compliance information.
3. Obtain current Federal wage determination(s) **through DED**. Use the State Annual Wage Order for your county along with all applicable Annual Incremental Increases, as issued by the Missouri Division of Labor Standards. Make sure that both applicable Federal and State determinations are included in all construction contracts, subcontracts, and bid specifications.
4. Verify that all applicable labor standards provisions and contractor/subcontractor certifications are included in bid documents and contracts.
5. Contact our office to confirm the applicable Federal wage decision 10 days prior to bid opening.
6. Confirm that the successful bidder is eligible to participate in the project through the Contractor Eligibility Verification process.



7. Complete the **Start of Construction Notice** and submit to DED within ten days after contract award, if possible, or immediately following the pre-construction conference.
8. Attend the pre-construction conference with the contractor to explain labor requirements and other aspects of contract compliance procedures. It is a good idea to review each applicable classification in the wage decisions to determine the correct rate of pay.
9. Forward copies of the first payrolls for each contractor or subcontractor to DED for verification following local approval. As previously stated, no drawdown of CDBG funds will be processed unless this information is received, and no payment of funds **from any source** should be made to the prime contractor or any subcontractor until current payrolls have been submitted and approved by the grantee.
10. Establish standard procedures for documenting local compliance, including:
  - check site for display of wage determinations and the applicable posters;
  - review file records and confirm weekly submission of contractor payrolls;
  - verify payment of correct wages through on-site worker interviews and other means;
  - check for proper certification from the U.S. Department of Labor, Bureau of Apprenticeship and Training if apprentices and/or trainees are used;
  - review overtime procedures and payments.
11. Make certain that the prime contractor supplies all subcontractors with the correct State and Federal wage determinations. Failure of the prime contractor to meet this requirement can present significant difficulties for all parties involved in documenting subcontractor compliance.
12. Investigate violations and take required follow-up actions.
13. Be sure that restitution is paid to each affected employee in all instances of contractor underpayment, and report this activity to our office.
14. Contact DED if any Federal underpayment exceeds \$1,000, or if there is evidence that the violation is aggravated or willful.
15. Document compliance reviews and investigations, and maintain these records in the project Labor Standards file.

## REQUEST FOR WAGE DETERMINATION

Missouri Department of Economic Development  
BCS Compliance Team  
PO Box 118  
Jefferson City, MO 65102-0118  
FAX: 573/526-4157

Grantee Name: \_\_\_\_\_ Project #: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ ZIP Code: \_\_\_\_\_

Date of Request: \_\_\_\_\_ County: \_\_\_\_\_

Mayor/Presiding Commissioner: \_\_\_\_\_

### Project Description:

Based on the project description, check with the consulting engineer if necessary to determine the relative portion of the project activities under the Federal “80/20” definition, and respond to all of the following:

1. Does this project contain dual construction activities? \_\_\_\_\_
2. If yes, is Building construction more than 20% of the total project, or \_\_\_\_\_
3. If yes, is Heavy construction more than 20% of the total project? \_\_\_\_\_

**Type of Federal Determination requested** (check with consulting engineer to determine relative portion of project activities under the Federal definition known as the “80/20 Rule”):

\_\_\_\_\_ Heavy & Highway Only      \_\_\_\_\_ Building Only      \_\_\_\_\_ Both H & H and Building

Name of person requesting wage rates: \_\_\_\_\_

Organization:

Phone (include area code): \_\_\_\_\_ E-Mail: \_\_\_\_\_

Street Address	City (post office)	State	ZIP Code
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Signature	Title
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## START OF CONSTRUCTION NOTIFICATION

1. Project Number \_\_\_\_\_ Recipient \_\_\_\_\_
2. City \_\_\_\_\_ County \_\_\_\_\_ State \_\_\_\_\_
3. Bid Call (advertising start date) \_\_\_\_\_
4. Bid Opening Date \_\_\_\_\_
5. Contract Award Date \_\_\_\_\_
6. Federal Wage Decision # \_\_\_\_\_ modification # \_\_\_\_\_ Date \_\_\_\_\_
7. State Annual Wage Order # \_\_\_\_\_ Section \_\_\_\_\_ Incremental Increase  
Effective Date \_\_\_\_\_
8. Date of Start of Construction \_\_\_\_\_
9. Total Amount of Contract (All Funding Sources) \_\_\_\_\_
10. Registered Name, Business Address, and employer tax I.D. number of General Contractor  
\_\_\_\_\_

\_\_\_\_\_  
Local Labor Standards Designee

\_\_\_\_\_  
Contractor Payroll Contact

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail address

\_\_\_\_\_  
E-mail address

Mail or FAX this notice within ten (10) days after award of contract to:

Missouri Department of Economic Development  
Business and Community Services  
Compliance Team  
PO Box 118  
Jefferson City, Missouri 65102  
FAX: 573-526-4157

## PRE-CONSTRUCTION REPORT FORMAT (SAMPLE)

Project Name: \_\_\_\_\_ Project # \_\_\_\_\_

Location: \_\_\_\_\_

Description of Work to be Performed: \_\_\_\_\_

Contractor: \_\_\_\_\_ Contract Amount: \$ \_\_\_\_\_

Conference Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ Location: \_\_\_\_\_

### **Items covered During Pre-Construction Conference**

- ☐ Attach a list of meeting participants – names and titles
- ☐ General Labor Standards concepts
- ☐ Grantee's role and responsibilities
- ☐ Contractor's role and responsibilities
- ☐ Section 3 of the Housing and Urban Development Act of 1968
- ☐ Equal Opportunity
- ☐ Submission of weekly payrolls, other reporting requirements, and sanctions
- ☐ Method and time frame for payment
- ☐ Use of subcontractors
- ☐ Submission of Apprenticeship documentation (if applicable)

- ☐ Prevailing Wage applicable to project (Heavy/Highway, Building, or Both)
- ☐ Discussion of how dual Federal and State prevailing wage rates apply to CDBG funded projects
- ☐ Contractor informed of the requirement to pay the higher of the State or Federal wage rate per classification on CDBG funded projects.

**Note:** In situations where the Federal "80/20 rule" is applicable, rates from the Federal Heavy & Highway determination could be in force along with the State Building schedule. In this circumstance, the higher of the two wage rates must still be paid.

**(THIS DOCUMENT SHOULD APPEAR ON COMPANY LETTERHEAD)**

**AFFIDAVIT OF WAGE RESTITUTION**

This is to acknowledge receipt of payment for restitution in the amount of \_\_\_\_\_ (gross amount less permissible deductions) for \_\_\_\_\_ hours at \_\_\_\_\_ per hour. This is for additional wages due on \_\_\_\_\_ (name and location of project). This was paid by check number \_\_\_\_\_.

GROSS AMOUNT: \$ \_\_\_\_\_

*Less deductions:*

Federal Income Tax \$ \_\_\_\_\_

F.I.C.A. \$ \_\_\_\_\_

Other (identify) \$ \_\_\_\_\_

SUBTOTAL: \$ \_\_\_\_\_

NET AMOUNT: \$ \_\_\_\_\_

\_\_\_\_\_  
(Signature of Employee)

*(ATTACH A COPY OF THE CHECK OR OTHER PROOF OF PAYMENT MADE TO THE EMPLOYEE ALONG WITH CORRECTED PAYROLLS)*

## **FRINGE BENEFITS**

### **CODE OF FEDERAL REGULATIONS**

#### **TITLE 29, SECTION 5.20-5.31**

The 1964 amendments to the Davis-Bacon Act require that the prevailing wage determined for Federal and Federally assisted construction include (among other things) the following:

1. The basic hourly rate of pay; and
2. The amount contributed by the contractor/subcontractor for certain fringe benefits (or the cost to the contractor/subcontractor for such benefits).

Therefore, if the wage determination lists fringe benefits, the contractor/subcontractor must pay to the employee in cash or fringe benefits an amount that equals the total of the basic hourly rate and fringe appearing on the wage determination. Any combination of cash payments and fringes is allowed, provided that the part you provide in benefits is:

- Explained to all employees in writing.
- Administered through a third party or through an actuarially sound, enforceable, unfunded commitment. (The Secretary of Labor may require unfunded plans to be held in a separate, special account.)
- If the employee works overtime, the premium must be computed on the basic hourly rate shown on the wage determination, even if the employer pays less than this amount in cash because of increased fringes.

In other words, if you take a credit on the basic hourly rate because you pay more in fringes than required by the wage determination, **you must revert back to the rate in the wage determination when computing and paying for overtime work.**

A fringe benefit is considered an employment benefit (such as a pension, paid holidays, health insurance, etc.) granted by an employer that involves a monetary cost without affecting the basic wage rates.

The Statutory provisions of fringe benefits under the Davis-Bacon Act are contained in Part 5.23. The fringe benefits provisions of the 1964 amendments to Davis-Bacon include the following:

1. The rate of contribution is irrevocably made by a contractor/subcontractor to a trustee or to a third person pursuant to a fund, plan, or program. The “third person” must be one who is not affiliated with the contractor or subcontractor.

The trustee must assume the usual fiduciary responsibilities imposed upon trustees by applicable law. The trust or fund must be set up in such a way that in no event will the contractor/subcontractor be able to recapture any of the contributions paid in or in any way divert the funds to his own use or benefit.

“Fund, plan, or program” is merely intended to recognize the various types of arrangements commonly used to provide fringe benefits through employer contributions. The contribution for fringe benefits must be made pursuant to a fund, plan, or program (Section 1(b)(2)(A) of the Act).

2. The rate of costs to the contractor/subcontractor, which may be reasonably anticipated in providing benefits to laborers and mechanics, pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated in writing to the laborers and

mechanics affected, **but only where the contractor/subcontractor is not required by other Federal, State or local law to provide such benefit.**

The act lists all types of fringe benefits that Congress considered common in the construction industry as a whole. The following fringe benefits include where the contractor/subcontractor pays all or part of the amount for:

- Medical or Hospital care
- Pension on retirement or death
- Compensation for injuries or illness resulting from occupational activity
- Insurance to provide for any of the foregoing
- Unemployment benefits
- Life Insurance
- Disability or Sickness Insurance
- Accident Insurance
- Vacation and Holiday pay
- Defrayment of costs of Apprenticeship or other similar programs
- Other *bona fide* fringe benefits

**Note:** “Other *bona fide* fringe benefits” is the so-called “open-end” provision. This was included so that new fringe benefits may be recognized as they become prevailing.

**The Act excludes fringe benefits that a contractor/subcontractor is obligated to provide under other Federal, State, or local law.** No credit may be taken under the Act for the payments made for such benefits (e.g., payments for Workmen’s Compensation Insurance under either a compulsory or elective State statute are not considered payments for fringe benefits under the Act). **Also, payments made for travel, subsistence, or to industry promotion funds are not normally payments for fringe benefits under the Act.**

Only the amount of contributions or costs for fringe benefits, which meet the requirements of the Act, will be considered.

The rate of contribution or cost is ordinarily an hourly rate and will be reflected this way in the wage determination. When fringe benefits are prevailing for various classes of laborers and mechanics in the area of proposed construction, such benefits are includable in any Davis-Bacon Wage Determination. Wage determinations will not contain such benefits when such benefits are not prevailing in the area of construction.

A contractor/subcontractor performing work subject to Davis-Bacon may discharge his minimum wage obligations for the payment of both straight time wages and fringe benefits by paying in cash, making payments, or incurring costs for “*bona fide*” fringe benefits of the types listed in the applicable wage determination or otherwise found to be prevailing by the Secretary of Labor, or by a combination thereof.

Sometimes the contribution or cost for certain fringe benefits may be expressed in a formula or method of payment other than an hourly rate. In such cases the Secretary, at his discretion, may express in the wage determination that rate of contribution or cost used in the formula or method, or may convert it to

an hourly rate of pay whenever it is found that such action would facilitate the administration of the Act.

**Unfunded Plans** (Part 5.28): There are no types of fringe benefits eligible for consideration as a so-called “unfunded plan” unless:

1. It could be reasonably anticipated to provide benefits described in the Act;
2. It represents a commitment that can be legally enforced;
3. It is carried out under a financially responsible plan or program; and
4. The plan or program providing the benefits has been communicated in writing to the laborers and mechanics affected.

The cost to a contractor/subcontractor, which may be reasonably anticipated in providing benefits of the types described in the Act, pursuant to an enforceable commitment to carry out a financially responsible plan or program, are considered fringe benefits within the meaning of the Act (Section 1(b)(2)(B) of the Act).

Legislative history suggests that these provisions were intended to permit the consideration of fringe benefits meeting these requirements, among others, and which are provided from general assets of a contractor/subcontractor.

It is in this manner that the Act provides for the consideration of “unfunded plans or programs” in finding prevailing wages and in ascertaining compliance with the Act.

There is a protection, however, against the use of this provision as a means of avoiding the Act’s requirements. The words “reasonably anticipated” are intended to require that any unfunded plan or program be able to withstand a test that can be described as one of actuarial soundness. As in the case of other fringe benefits payable under the Act, an unfunded plan must be “*bona fide*” and not a mere simulation or sham for avoiding compliance with the Act.





## **CERTIFICATION FOR APPLICABLE FRINGE BENEFIT PAYMENTS**

PROJECT NAME: \_\_\_\_\_

PROJECT NUMBER: \_\_\_\_\_

<b>Classification/Fringe Benefits Provided</b>	<b>Name, Address and Telephone Number of Plan/Fund/Program</b>
Health and Welfare	
Pension	
Vacation	
Apprenticeship/Training	

OR: (Check if applicable.)

\_\_\_\_\_ I certify that I do not make payments to approved fringe benefit plans, funds or programs.

\_\_\_\_\_  
Contractor/Subcontractor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

FY2006 CDBG Administrative Manual  
Labor Standards

**U.S. Department of Labor**  
Employment Standards Administration  
Wage and Hour Division

**PAYROLL**  
(For Contractor's Optional Use; See Instructions, Form WH-347 Inst.)



*Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.*

NAME OF CONTRACTOR <input type="checkbox"/>	OR SUBCONTRACTOR <input type="checkbox"/>	ADDRESS	OMB No.: 1215-0149 Expires: 03/31/2006
PAYROLL NO.	FOR WEEK ENDING	PROJECT AND LOCATION	PROJECT OR CONTRACT NO.

(1) NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) NO OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT OR ST	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS						(9) NET WAGES PAID FOR WEEK
				HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS			
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We estimate that it will take an average of 56 minutes to complete this collection of information, including time for reviewing instructions searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U. S. Department of Labor, Room S3502, 200 Constitution Avenue, N. W., Washington, D. C. 20210.

FY2006 CDBG Administrative Manual  
Labor Standards

Date \_\_\_\_\_

I, \_\_\_\_\_  
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

\_\_\_\_\_ on the  
(Contractor or Subcontractor)  
\_\_\_\_\_ ; that during the payroll period commencing on the  
(Building or Work)  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and ending the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
all persons employed on said project have been paid the full weekly wages earned, that no rebates have  
been or will be made either directly or indirectly to or on behalf of said

\_\_\_\_\_ from the full  
(Contractor or Subcontractor)  
weekly wages earned by any person and that no deductions have been made either directly or indirectly  
from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part  
3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948,  
63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 276c), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are  
correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the  
applicable wage rates contained in any wage determination Incorporated into the contract; that the  
classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide  
apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of  
Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a  
State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

- ☐ — in addition to the basic hourly wage rates paid to each laborer or mechanic listed in  
the above referenced payroll, payments of fringe benefits as listed in the contract  
have been or will be made to appropriate programs for the benefit of such  
employees, except as noted in Section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- ☐ — Each laborer or mechanic listed in the above referenced payroll has been paid,  
as indicated on the payroll, an amount not less than the sum of the applicable  
basic hourly wage rate plus the amount of the required fringe benefits as listed  
in the contract, except as noted in Section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE

SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR  
SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE  
31 OF THE UNITED STATES CODE.

\* U.S. G.P.O.:1997 519.861

## INSTRUCTIONS FOR COMPLETING PAYROLL FORM

**General:** The use of this particular payroll form is not mandatory. This form has been made available for the convenience of contractors and sub-contractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls. When properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 CFR, Subtitle A), as to payrolls submitted in connection with contracts subject to Davis-Bacon and Related Acts.

This form meets needs resulting from the amendment of the Davis-Bacon Act to include fringe benefits provisions. Under this amended law, the contractor is required to pay not less than fringe benefits as predetermined by the Department of Labor, in addition to payment of not less than the predetermined rates. The contractor's obligation to pay fringes to the various plans, funds, or programs or by making these payments to the employee in cash in *lieu* of fringes.

This form allows the contractor to show on the face of the payroll all monies paid to the employee, whether as basic rates or in cash in *lieu* of fringes. It also provides for the contractor's representation in the statement of compliance on the rear of the payroll that he is paying to others fringes required by the contract and not as cash in *lieu* of fringes. Detailed instructions concerning the preparation of the payroll are as follows:

**Contractor or Subcontractor:** Fill in the firm's name and check appropriate box. **Include the IRS tax ID number on the top left-hand corner.**

**Address:** Fill in the firm's address.

**Column 1 - Name, Address, and Social Security Number of Employee:** The employee's full name must be shown on each weekly payroll submitted. The employee's address must also be shown on the payroll covering the first week in which the employee works on the project. The address need not be shown on subsequent weekly payrolls unless the address changes. The Social Security number of each employee must also be provided on first reference as required by 29 CFR 5.5(a) 3(i.).

**Column 2 - Withholding Exemption:** This column is inserted merely for the employer's convenience and is not a requirement of Regulations, Parts 3 and 5.

**Column 3 - Work Classification:** List classification descriptive of work actually performed by employees, including zone and group. Consult classifications and minimum wage schedules set forth in contract specifications. If additional classifications are deemed necessary, consult the Contracting Officer or Agency representative. Employee may be shown as having worked in more than one classification provided that an accurate breakdown of hours as worked is maintained and shown on the payroll by use of separate line entries.

**Column 4 - Hours Worked:** On all contracts that are subject to the Contract Work Hours and Safety Standards Act, enter as overtime hours all worked in excess of 40 hours per week.

**Column 5 - Total:** Enter the total hours worked.

**Column 6 - Rate of Pay, Including Fringe Benefits:** In the straight time box, list the actual hourly rate paid to the employee for straight time worked, plus any cash in *lieu* of fringes paid to the employee. When recording the straight time hourly rate, any cash paid in *lieu* of fringes may be shown separately from the basic rate (example \$3.25/.40). This is of assistance in correctly computing overtime. See "FRINGE BENEFITS" below. In the overtime box, show the overtime-hourly rate paid, plus any cash in *lieu* of fringes paid to the employee. See "FRINGE BENEFITS" below.

Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours and Safety Standards Act of 1962. In addition to paying not less than the predetermined rate for the classification in which the employee works, the contractor shall pay to approved plans, funds, or programs (or shall pay as cash in *lieu* of fringes) amounts pre-determined as fringe benefits in the wage decision in the contract. See “FRINGE BENEFITS” below.

**Fringe Benefits - Contractors Who Pay All Required Fringe Benefits:** A contractor, who pays fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, shall continue to show on the face of the payroll the basic cash hourly rate and overtime paid to his employees. The contractor shall check paragraph 4(a) of the statement on the reverse of the payroll to indicate that he is also paying to approved plans, funds or programs not less than the amount predetermined as fringe benefits for each craft. Any exception shall be noted in Section 4(c). Ensure the project’s labor designee is aware of the hourly rate for fringes paid to benefit plans for each classification. Provide him with documentation along with the first payroll.

**Contractors Who Pay No Fringe Benefits:** Any contractor who does not pay fringe benefits into approved plans, funds, or programs shall pay to the employee and insert in the straight time hourly rate column of the payroll an amount not less than the predetermined applicable wage decision. Since it is not necessary to pay time and one-half on cash paid in *lieu* of fringes, the overtime rate shall be not less than the sum of the basic pre-determined rate, plus the half-time premium on the basic or regular rate, plus the required cash in *lieu* of fringes at the straight time rate. In addition, the contractor shall check paragraph 4(b) of the statement on the reverse of the payroll to indicate that he is paying fringe benefits in cash directly to the employees. Any exceptions shall be noted in Section 4(c).

**Use of Section 4(c) Exceptions:** Any contractor who pays into approved plans, funds, or programs but in amounts less than the wage determination requirement, is obligated to pay the deficiency directly to the employees as cash in *lieu* of fringes. Any exceptions to Section 4(a) or 4(b) shall be entered in Section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employee as cash in *lieu* of fringes and the hourly amount paid to the plans, funds, or program as fringes. The contractor shall confirm that he is paying to each such employee for all hours (unless otherwise provided by applicable determination) worked on Federal or Federally assisted project an amount not less than the pre-determined rate plus cash in *lieu* of fringes as shown in Section 4(c). The rate paid and amount of cash paid in *lieu* of fringe benefits per hour should be entered in column 6 on the payroll. See paragraph “Contractors Who Pay No Fringe Benefits” for computation of overtime rate.

**Column 7 - Gross Amount Earned:** Enter the gross amount earned on this project. If part of the employees’ weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally-assisted project and then the gross amount earned during the week on all projects (example \$63.00/120.00).

**Column 8 - Deductions:** Five columns are provided for showing deductions made. If more than five deductions are involved, use the first four columns and show the balance of deductions under the “Other” column. Show the actual total under “Total Deductions” column and, in the attachment to the payroll, describe the deductions contained in the “Other” column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 CFR Part 3. If an employee worked on other jobs in addition to this project, show the actual deductions from his weekly gross wage and indicate that deductions are based on gross wages.

**Column 9 - Net Wages Paid For Week:** Enter the net wages paid to the employee for the week.

**Totals:** Space has been left at the bottom of the columns so that totals may be shown if the contractor so desires.

**Statement Required by Regulations, Parts 3 and 5:** While this form need not be notarized, the statement on the back of the payroll is subject to the penalties provided by 18 USC 1001, which are possible imprisonment for five years, \$10,000 fine, or both. Accordingly, the party signing this required statement should have knowledge of the facts represented as true.

Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions are adequately described in the “Deductions” column above, state “See Deductions column in this payroll.” See the paragraph entitled “Fringe Benefits” above for instructions concerning filling out paragraph #4 of the statement.

## HOW TO COMPLETE PAYROLL FORMS (FRONT SECTION)

Check correct box.

Enter IRS number on first payroll

### PAYROLL

(For Contractor's Optional Use; See instruction, Form WH-347 Inst.)

NAME OF CONTRACTOR <input type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>		IRS NUMBER	ADDRESS	
Alhollon Electric		24168415	1107 Orange Place, Columbia, Maryland	

PAYROLL NO. 1	FOR WEEK ENDING April 11, 1992	PROJECT AND LOCATION Kings Village	PROJECT OR CONTRACT NO. 47966120
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Payrolls must be numbered sequentially. Write the word "Final" after the number on your last payroll.

Enter days & week work was performed.

Overtime:  
 1. Hours on this project contract meeting the overtime definition  
 2. Total overtime

Specify:  
 1. Types of deductions  
 2. Total deductions withheld

(1) Name, address, and social security number of employee	(2) No. of exemptions	(3) Work Classification	OT Or ST	(4) Day and Date							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS						(9) NET WAGES PAID FOR WEEK	
				W	T	F	S	S	M	T				FICA	WITH-HOLDING TAX			OTHER	TOTAL		
				13	14	15	16	17	18	19											
Lee Baskey 714 Washington Baltimore, MD 22021 XXX-XX-XXXX		Mason	O	2	2	2				2	2	10	15.00	550.00	42.00	35.21	4.50	2.62	1.31	85.61	464.33
			S	8	8	8				8	8	40	10.00								

Address and Social Security number are required.  
 1. Use first time the worker's name appears on the payroll.  
 2. Whenever the employee moves to a new address.

Fill in the classification exactly as it appears on the determination. If classification is for a power equipment operator, indicate type, size, and horsepower.

Straight time:  
 1. Hours worked on this contract up to 40 per week.  
 2. Total straight time.

Enter gross, all deductions, and net. Check your figures; subtract the total amount withheld from the total gross. The answer should equal the total in Column 4.

## INSTRUCTIONS FOR PREPARATION OF STATEMENT OF COMPLIANCE

This statement of compliance meets needs resulting from the amendment of the Davis-Bacon Act to include fringe benefits provisions. Under this amended law, the contractor is required to pay fringe benefits as predetermined by the Department of Labor, in addition to payment of the minimum rates. The contractor's obligation to pay fringe benefits may be met by payment of the fringes to the various plans, funds, or programs or by making these payments to the employees as cash in *lieu* of fringes.

The contractor should **show on the face of his payroll all monies paid to the employees** whether as basic rates, or as cash in *lieu* of fringes. The contractor shall represent in the statement of compliance that **he is paying to others** fringes required by the contract and not paying as cash in *lieu* of fringes. Detailed instructions follow:

### **Contractors who pay all required fringe benefits**

A contractor who pays fringe benefits to approved plans, funds, or programs, in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, shall continue to show on the face of his payroll the basic cash hourly rate and overtime rate paid to his employees. The contractor shall check paragraph 4(a) of the statement to indicate that he is also paying to approved plans, funds, or programs not less than the amount predetermined as fringe benefits for each craft. Any exception shall be noted in Section 4(c).

### **Contractors who pay no fringe benefit**

Contractors who pay no fringe benefits shall pay to the employee, and insert in the straight time hourly rate column of his payroll, an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. Since it is not necessary to pay time and a half on cash paid in *lieu* of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on the basic or regular rate, plus the required cash in *lieu* of fringes at the straight time rate. To simplify computation of overtime, it is suggested that the straight time basic rate and cash in lieu of fringes be separately stated in the hourly rate column (example \$3.25/.40). In addition, the contractor shall check paragraph 4(b) of the statement to indicate that he is paying fringe benefits in cash directly to his employees. Any exceptions shall be noted in Section 4(c).

### **Use of Section 4(c), Exceptions**

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the employees as cash in *lieu* of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employees as cash in *lieu* of fringes and the hourly amount paid to plans, funds, or programs as fringes.





DEPARTMENT OF ECONOMIC DEVELOPMENT

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

**RECORD OF EMPLOYEE INTERVIEW**

Project Number:		Project Name:	
Contractor/Subcontractor (Employer):			
1. Name of employee:			
2. Home address and zip code:			
3. Last date worked on project before today:		Number of hours worked on project on that date:	
4. Hourly pay rate			
Job classification:			
Apprentice?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
5. Duties:			
6. Tools or equipment used:			
7. Paid at least time and one-half for all hours worked in excess of 40 in a work week, or as required by the Missouri Prevailing Wage Law? ( <i>If overtime premium pay is not required, enter "Inapplicable".</i> )		<input type="checkbox"/> Yes	<input type="checkbox"/> No
8. Ever threatened, intimidated, or coerced into giving up any part of pay?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
9. Duties observed by interviewer:			
Conform to classification?		YES	NO
10. Remarks:			
11. Signature of Interviewer:		Date of interview:	
<b>PAYROLL EXAMINATION</b>			
12. Remarks:			
13. Signature of payroll examiner:		Date:	

<b>U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT</b> <b>REPORT OF ADDITIONAL CLASSIFICATION AND RATE</b>		<b>HUD FORM 4230A</b> <small>OMB Approval Number 2501-0011 (Exp. 09/30/2006)</small>				
1. FROM (name and address of requesting agency)	2. PROJECT NAME AND NUMBER					
	3. LOCATION OF PROJECT (City, County and State)					
4. BRIEF DESCRIPTION OF PROJECT	5. CHARACTER OF CONSTRUCTION <input type="checkbox"/> Building <input type="checkbox"/> Residential <input type="checkbox"/> Heavy <input type="checkbox"/> Other (specify) <input type="checkbox"/> Highway					
6. WAGE DECISION NO. (include modification number, if any)		7. WAGE DECISION EFFECTIVE DATE				
<input type="checkbox"/> COPY ATTACHED						
8. WORK CLASSIFICATION(S)	HOURLY WAGE RATES <table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%; text-align: center; border-bottom: 1px solid black;">BASIC WAGE</th> <th style="width: 50%; text-align: center; border-bottom: 1px solid black;">FRINGE BENEFIT(S) (if any)</th> </tr> <tr> <td style="height: 150px;"></td> <td></td> </tr> </table>		BASIC WAGE	FRINGE BENEFIT(S) (if any)		
BASIC WAGE	FRINGE BENEFIT(S) (if any)					
9. PRIME CONTRACTOR (name, address)	10. SUBCONTRACTOR/EMPLOYER, IF APPLICABLE (name, address)					
<b>Check All That Apply:</b> <input type="checkbox"/> The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision. <input type="checkbox"/> The proposed classification is utilized in the area by the construction industry. <input type="checkbox"/> The proposed wage rate(s), including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision. <input type="checkbox"/> The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s). <input type="checkbox"/> Supporting documentation attached, including applicable wage decision.						
<b>Check One:</b> <input type="checkbox"/> <b>Approved, meets all criteria. DOL confirmation requested.</b> <input type="checkbox"/> <b>One or more classifications fail to meet all criteria as explained in agency referral. DOL decision requested.</b>						
<div style="display: flex; justify-content: space-between;"> <div style="width: 40%;">           _____  <b>Agency Representative</b>  <small>(Typed name and signature)</small> </div> <div style="width: 40%;">           _____  <i>Date</i> </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 40%;">           _____  <i>Phone Number</i> </div> <div style="width: 40%;"></div> </div>		<b>FOR HUD USE ONLY</b> <b>LR2000:</b>  <b>Log in:</b>  <b>Log out:</b>				

HUD-4230A (8-03) PREVIOUS EDITION IS OBSOLETE

FY2006 CDBG Administrative Manual  
Labor Standards

<b>Report of Additional Classification and Wage Rate</b>	<b>U.S. Department of Housing and Urban Development Office of Labor Relations</b>	OMB Approval No. 2501-0011 (Exp. 09/30/2006)
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Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered non-sensitive and does not require special protection. This information is required to obtain benefits. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Employers engaged on HUD-assisted construction projects subject to Davis-Bacon wage requirements must pay no less than the wages determined to be prevailing by the Secretary of Labor to all laborers and mechanics engaged on the construction work. On occasion, the applicable Davis-Bacon wage decision does not contain all of the work classifications and wage rates needed to complete the construction work. This information collection facilitates the addition of needed work classifications and wage rates for the construction work involved. This form is used by HUD and local agencies administering HUD programs to report employer request(s) for additional classification and wage rates so that an appropriate wage rate can be approved by the Department of Labor for the construction work. This information collection is required by Department of Labor regulations at 29 CFR 5.5. While no assurances of confidentiality are pledged to respondents, HUD generally discloses these data only in response to a Freedom of Information request.

#### Instructions

##### General:

Contractors/Employers: Do not need to complete this form. Submit a written, signed request to the responsible contracting agency naming the work classifications and the wage rates, including any fringe benefits, that are proposed.

Local Agency Staff: Complete items 2 through 10. Submit one copy of this form to the responsible HUD Labor Relations Office with a copy of the applicable Davis-Bacon wage decision and the written request from the employer naming the work classifications and wage rates that are proposed. (The employer's request must be made in writing and must be signed.)

1. For HUD or State CDBG Office use. Enter the name and address of HUD Office (or State CDBG office) submitting the report and to which the DOL reply should be sent.
2. Enter the name and number of the project or contract involved.
3. Enter the location of the project involved: city, county and state.
4. Describe the construction involved, e.g., new construction or rehabilitation, number and type of buildings, number of stories, number of units (as applicable). For example, New construction: 3 – 4-story buildings; 120 units.
5. Enter the character of construction as defined by DOL for Davis-Bacon prevailing wage rate purposes.
6. Enter the number of the Davis-Bacon wage decision applicable to the construction work. Include the number of wage decision modifications (if any) applicable to the work.
7. Enter the effective date of the wage decision for the project. (See DOL regulations at 29 CFR 1.6.)
8. Enter the work classifications and corresponding hourly basic wage rates and fringe benefit rates (if any) requested.
9. Self-explanatory.
10. If the requesting employer is not the prime contractor, enter the name and address of the subcontractor/employer making the request.

Remainder of Form: HUD Labor Relations/State CDBG use.

HUD Labor Relations/State CDBG Staff: Evaluate the employer's request against the criteria for approval (see DOL Regulations, 29 CFR Part 5, and related contract labor standards provisions). The criteria are reflected in "checklist" form to ensure that each factor is considered and to ensure that supporting documentation, including a copy of the applicable wage decision, is attached. Check the box next to each criterion that is met; do not check the box next to any criterion that is not met.

If the request meets all criteria, check the appropriate box, enter the name and telephone number of the HUD/State CDBG agency representative, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision and the written request from the employer involved.

If the request fails to pass all criteria, check the appropriate box, enter agency contact information, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision, the written request from the employer involved, and a cover letter explaining how the employer's request failed to meet one or more of the criteria.

##### Submission of Report

Completed forms shall be sent to: Branch of Construction Wage Determinations, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S-3014, Washington, DC 20210.

U.S. DEPARTMENT OF LABOR  
DAVIS-BACON RESOURCE BOOK

*DB CONFORMANCES*

**SPECIALTY CLASSES THAT SHOULD NOT BE REQUESTED  
IF THE DUTIES ARE PERFORMED BY GENERAL CRAFTS  
IN THE CONTRACT WAGE DETERMINATION**

<b>SPECIALTY</b> (often requested by contractors)	<b>GENERAL CRAFT</b> (may perform the specialty duties)
Drywall (sheetrock) installers	Carpenters
Drywall finishers/tapers	Painters
Alarm installers Sound and communication workers/installers Electronic technicians Lightning protection installers Low voltage installers	Electricians
HVAC mechanics (heating, ventilation and air conditioning mechanics) Refrigeration mechanics/workers Furnace installers Burner repairmen	Sheet metal workers Plumbers Pipe fitters/steam fitters Electricians
Pipe wrappers/insulators Mechanical (system) insulators	Asbestos workers/heat & frost insulators
Batt insulation installers Blown insulation installers	Carpenters Laborers
Asbestos removal from pipes and boilers that will be reinsulated	Asbestos/workers heat & frost insulators
Asbestos removal – except from pipes and boilers that will be reinsulated	Laborers
Metal building assemblers/builders/erectors	Iron workers Laborers Sheet metal workers Carpenters
Fence erectors	Ironworkers Laborer
Rebar workers Rodman (performing rebar work) Steel setters Steel or iron tiers	Ironworkers (reinforcing) Cement workers Laborers
TV-grout operators	Power equipment operators Laborers Truck drivers

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Program Registration and  
Apprenticeship Agreement  
Office of Apprenticeship Training,  
Employer and Labor Services (OATELS)

**U.S. Department of Labor**  
Employment and Training Administration



**APPRENTICE REGISTRATION-SECTION II**

**Warning: This agreement does not constitute a certification under Title 29, CFR, Part 5 for the employment of the apprentice on Federally financed or assisted construction projects. Current certifications must be obtained from the Bureau of Apprenticeship and Training or the recognized State Apprenticeship Agency shown below. (Item 22)**

The program sponsor and apprentice agree to the terms of Apprenticeship Standards incorporated as part of this Agreement. The sponsor will not discriminate in the selection and training of the apprentice in accordance with the Equal Opportunity Standards in Title 29 CFR Part 30.3, and Executive Order 11246. This agreement may be terminated by either of the parties, citing cause (s), with notification to the registration agency, in compliance with Title 29, CFR, Part 29.6.

**PART A: TO BE COMPLETED BY APPRENTICE. NOTE TO SPONSOR: PART A SHOULD ONLY BE FILLED OUT BY APPRENTICE**

1. Name (Last, First, Middle), and Address (No., Street, City, State, Zip Code)		*Social Security Number (Voluntary-See reverse)		Answer Both A AND B (Voluntary) (Definitions on reverse)		5. Veteran Status (Mark one) <input type="checkbox"/> Non Veteran <input type="checkbox"/> Veteran	
2. Date of Birth (Mo., Day, Year)		3. Sex (mark one) <input type="checkbox"/> Male <input type="checkbox"/> Female		4. a. Ethnic Group (mark one) <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino  b. Race (mark one or more) <input type="checkbox"/> Am. Indian or Alaska native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or other Pacific Islander <input type="checkbox"/> White		6. Highest education level (Mark one) <input type="checkbox"/> 8 <sup>th</sup> grade or less <input type="checkbox"/> 9 <sup>th</sup> or 12 <sup>th</sup> grade <input type="checkbox"/> GED <input type="checkbox"/> High School Graduate	
7. Career Linkage or Direct Entry (mark one) (instructions on reverse) <input type="checkbox"/> None <input type="checkbox"/> Adult <input type="checkbox"/> Youth <input type="checkbox"/> HUD/STEP-UP <input type="checkbox"/> School-to-Registered Apprenticeship <input type="checkbox"/> Incumbent Worker <input type="checkbox"/> Job Corps <input type="checkbox"/> Dislocated Worker <input type="checkbox"/> Direct Entry:							
8. Signature of Apprentice Date:				9. Signature of Parent/Guardian (if minor) Date:			

**PART B: TO BE COMPLETED BY SPONSOR**

10. Sponsor Program No. Sponsor Name and Address (No. Street, City, County, State, Zip Code)				11a. Trade/Occupation (The work processes listed in the standards are part of this agreement)			
11b. Occupation Code		12. Term (Hrs., Mos., Yrs.)		13. Probationary Period (Hrs., Mos., Yrs)			
14. Credit for previous Experience (Hrs., Mos., Yrs.)		14. Term remaining (Hrs., Mos., Yrs.)		16. Date apprenticeship begins (Indenture date)			
17a. Related Instruction (number of hours per year)		17b. Apprentice wages for Related Instruction <input type="checkbox"/> Will be paid <input type="checkbox"/> Will not be paid		17c. Related Training Instruction Source			
18. Wages: (Instructions on reverse)							
18a. Pre-Apprenticeship Hourly Wages \$ _____							
Period 1	2	3	4	5	6	7	8 9 10
18b. Term (Hrs., Mos., Yrs.)							
18c. Percent							
18d. Journeyworker's or completion hourly wage \$				18e. Apprentice entry hourly wage \$			
19. Signature of Sponsor Representative Date Signed				21. Name and address of sponsor designee to receive complaints (if applicable)			
20. Signature of Sponsor Representative Date Signed							

**PART C: TO BE COMPLETED BY REGISTRATION AGENCY**

22. Registration Agency and Address		23. Signature (Registration Agency)		24. Date registered	
25. Apprentice Identification Number (Definition on reverse):					



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**Item 4.a. Definitions:**

**Hispanic or Latino.** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."

**Item 4.b. Definitions:**

**American Indian or Alaska Native.** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

**Asian.** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

**Black or African American.** A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."

**Native Hawaiian or Other Pacific Islander.** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

**White.** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

**Items 7. Instructions:**

Indicate any career linkage (definitions follow) or direct entry. Entry "None" if no career linkage or direct entry apply. Enter "Incumbent Worker" if the individual before becoming an apprentice was currently employed full-time by the sponsor or entities participation in apprenticeship program. Career linkage includes participation in programs that provided employment, training and other services to adults, youth and dislocated workers. Funds for these activities are provided by the U.S. Department of Labor/Employment and Training Administration to states and local communities

**Adult.** Also includes individuals participating in Native American Programs, and/or Migrant and Seasonal Farmworker Programs.

**Youth.** Includes Youth ages 16-24 years, and other concentrated Youth programs in designated areas.

**Dislocated Workers.** Includes an individual that has been terminated or laid off and is unlikely to return to the industry or occupation. It also includes a displaced homemaker who has been providing unpaid services to family members in the home, is no longer supported, and is unemployed or underemployed.

**Job Corps.** Youth ages 16-24 years usually receiving services in a residential setting.

**School-to-Registered Apprenticeship.** Program designed to allow high school youth ages 16-17 to enter a Registered Apprenticeship program and continue after graduation will full credit given for the high school portion.

**HUD/STEP-UP.** Developed in conjunction with the U.S. Department of Housing and Urban Development (HUD). The program provides the actual apprenticeship experience and the framework for moving into high-skill Registered Apprenticeship.

**Direct Entry.** A graduate from an accredited technical training school, Job Corps training program or a participant in a military apprenticeship program, any of which training is specifically related to the occupation and incorporated in the Registered Apprenticeship standards. Also, fill in the name of the program.

**Item 18. Wage Instructions**

18a. Pre-Apprentice Hourly Wage, sponsor enters the hourly wage in the quarter prior to becoming an apprentice.

18b. Term, sponsor enters in each box the apprentice schedule of pay for each advancement period.

18c. Percent, sponsor enters, preferably, the percent of journeyworker's wage.

18d. Journeyworker's wage, sponsor enters date and wage per hour.

18e. Apprentice entry hourly wage, (hourly dollar amount paid) sponsor enters apprentice hourly wage.

**Note:**

18b. The employer agrees to pay the hourly wage rate identified in this section to the apprentice each period of the apprenticeship based on the successful completion of the on-the-job training and the related instruction outlined in the Apprenticeship Standards. The period may be expressed in hours, months, or years.

18c. The wage rates preferably are expressed in percent of journeyworker's wage, but may also be expressed in dollars and cents, depending on the industry.

18d. If the employer is signatory to a collective bargaining agreement, the journeyworkers wage rate in the applicable collective bargaining agreement is identified. Apprenticeship program sponsors not covered by a collective bargaining agreement must identify a minimum journeyworker's hourly rate that will be the basis for the progressive wage schedule identified in item 18.c., of this agreement.

**Example – 3 YEAR APPRENTICESHIP PROGRAM**

Term	Period 1	Period 2	Period 3	Period 4	Period 5	Period 6
hrs, mos, yrs.	1000 hrs.	1000 hrs.	1000 hrs.	1000 hrs.	1000 hrs.	1000 hrs.
%	55	60	65	70	80	90

**Example – 4 YEAR APPRENTICESHIP PROGRAM**

Term	Period 1	Period 2	Period 3	Period 4	Period 5	Period 6	Period 7	Period 8
hrs, mos, yrs.	6 mos.	6 mos.	6 mos.	6 mos.	6 mos.	6 mos.	6 mos.	6 mos.
%	50	55	60	65	70	75	80	90

**Item 25. Definition:**

The apprentice identification number is a unique number generated by the Registered Apprenticeship Information System (the OATELS' data-base), which is used to identify the apprentice. It replaces the social security number to protect the apprentice's privacy.

\*The submission of your social security number is voluntary. For purposes of the Davis Bacon Act of 1931, as amended, U.S. Code Title 40, Sections 276a to 276a-7, and Title 29 CFR 5, your social security number will be used to verify and certify to the U.S. Department of Labor, Employment Standards Administration, that you are a registered apprentice to ensure that the employer is complying with the geographic prevailing wage of your occupational classification. It will be used to verify your periods of employment and wages for purposes of complying with Memorandum M-02-06 of the Office of Management and Budget related to the President's Management Agenda for performance and budget integration of Federal Programs. Your response is voluntary. Failure to disclose your social security number on this form will not affect your right to be registered as an apprentice. Civil and criminal provision of the Privacy Act apply to any unlawful disclosure of your social security number, which is prohibited.

The collection and maintenance of the data on ETA-671, Apprenticeship Agreement Form, is authorized under the National Apprenticeship Act, 29 U.S.C. 50, and Code of Federal Regulations 29 Part 29.1. The data is used for apprenticeship program statistical purposes and is maintained, pursuant to the Privacy Act of 1974 (5 U.S.C. 552a.), in a system of records entitled, DOL/ETA-4, Apprenticeship Management System (AMS), at the Office of Apprenticeship Training, Employer and Labor Services, Employment and Training Administration, U.S. Department of Labor. Data may be disclosed to a State Apprenticeship Council to determine an assessment of skill needs and program information, and in connection with federal litigation or when requested by law.

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Office of Apprenticeship Training, Employer and Labor Services, 200 Constitution Avenue, N.W., Room N-4671, Washington, D.C. 20210 (Paperwork Reduction Project 1205-0223).

## **DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS**

### **PREVAILING WAGE LAW**

### **RSMO 290.210 – 290.430**

#### **Definitions.**

290.210. As used in sections 290.210 to 290.340, unless the context indicates otherwise:

- (1) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, painting and decorating, or major repair.
- (2) "Department" means the department of labor and industrial relations.
- (3) "Locality" means the county where the physical work upon public works is performed, except that if there is not available in the county a sufficient number of competent skilled workmen to construct the public works efficiently and properly, "locality" may include two or more counties adjacent to the one in which the work or construction is to be performed and from which such workers may be obtained in sufficient numbers to perform the work, and that, with respect to contracts with the state highways and transportation commission, "locality" may be construed to include two or more adjacent counties from which workmen may be accessible for work on such construction.
- (4) "Maintenance work" means the repair, but not the replacement, of existing facilities when the size, type or extent of the existing facilities is not thereby changed or increased.
- (5) "Prevailing hourly rate of wages" means the wages paid generally, in the locality in which the public works is being performed, to workmen engaged in work of a similar character including the basic hourly rate of pay and the amount of the rate of contributions irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan or program, and the amount of the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to workmen and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the workmen affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal or state law to provide any of the benefits; provided, that the obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the department, insofar as sections 290.210 to 290.340 are concerned, may be discharged by the making of payments in cash, by the making of irrevocable contributions to trustees or third persons as provided herein, by the assumption of an enforceable commitment to bear the costs of a plan or program as provided herein, or any combination thereof, where the aggregate of such payments, contributions and costs is not less than the rate of pay plus the other amounts as provided herein.
- (6) "Public body" means the state of Missouri or any officer, official, authority, board or commission of the state, or other political subdivision thereof, or any institution supported in whole or in part by public funds.
- (7) "Public works" means all fixed works constructed for public use or benefit or paid for wholly or in part out of public funds. It also includes any work done directly by any public utility company when performed by it pursuant to the order of the public service commission or other public authority whether or not it be done under public supervision or direction or paid for wholly or in part out of public funds when let to contract by said utility. It does not include any work done for or by any drainage or levee district.
- (8) "Workmen" means laborers, workmen and mechanics.  
(L. 1957 p. 574 § 1, A.L. 1965 p. 438, A.L. 1969 S.B. 142)  
(1981) Industrial development projects are not subject to the Prevailing Wage Act unless the projects constitute "public works" and involve workmen employed by or on behalf of a public body engaged in public works. State ex rel. Ashcroft v. City of Sedalia (Mo. App.), 629 S.W.2d 578.  
(1993) Statute of limitations period for claims for failure to pay prevailing wage for public works governed by section 516.110, RSMo, for actions based on writing and not governed by statute of limitations for unpaid minimum wages in section 516.140, RSMo. City of Kansas City v. Integon Indemnity Corp., 857 S.W.2d 233 (Mo. App. W.D.).

#### **Policy declared.**

290.220. It is hereby declared to be the policy of the state of Missouri that a wage of no less than the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed shall be paid to all workmen employed by or on behalf of any public body engaged in public works exclusive of maintenance work.

- (L. 1957 p. 574 § 2)  
(1959) Prevailing Wage Act sustained as against attacks claiming it (1) constituted arbitrary classification; (2) unconstitutionally delegated legislative power without standards; (3) is special legislation; and (4) was violative of a city charter adopted under § 19, Art. VI of the constitution. City of Joplin v. Indust. Comm. (Mo.), 329 S.W.2d 687.  
(1981) Industrial development projects are not subject to the Prevailing Wage Act unless the projects constitute "public works" and involve workmen employed by or on behalf of a public body engaged in public works. State ex rel. Ashcroft v. City of Sedalia (Mo. App.), 629 S.W.2d 578.

#### **Prevailing wage rates required on construction of public works.**

290.230. 1. Not less than the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed, and not less than the prevailing hourly rate of wages for legal holiday and overtime work, shall be paid to all workmen employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work. Only such workmen as are directly employed by contractors or subcontractors in actual construction work on the site of the building or construction job shall be deemed to be employed upon public works.

2. When the hauling of materials or equipment includes some phase of construction other than the mere transportation to the site of the construction, workmen engaged in this dual capacity shall be deemed employed directly on public works.

- (L. 1957 p. 574 § 3)

#### **Department of labor and industrial relations to enforce--make regulations.**

290.240. 1. The department shall inquire diligently as to any violation of sections 290.210 to 290.340, shall institute actions for penalties herein prescribed, and shall enforce generally the provisions of sections 290.210 to 290.340.

2. The department may establish rules and regulations for the purpose of carrying out the provisions of sections 290.210 to 290.340.

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(L. 1957 p. 574 § 6, A.L. 1969 S.B. 142)

(1997) Department is not authorized by statute to sue for back wages on behalf of workers. Department of Labor and Industrial Relations v. SKC Electric, Inc., 936 S.W.2d 802 (Mo.banc 1997).

**Prevailing wage, incorporation into contracts--failure to pay, penalty--complaints of violation, public body or prime contractor to withhold payment.**

290.250. Every public body authorized to contract for or construct public works, before advertising for bids or undertaking such construction shall request the department to determine the prevailing rates of wages for workmen for the class or type of work called for by the public works, in the locality where the work is to be performed. The department shall determine the prevailing hourly rate of wages in the locality in which the work is to be performed for each type of workman required to execute the contemplated contract and such determination or schedule of the prevailing hourly rate of wages shall be attached to and made a part of the specifications for the work. The public body shall then specify in the resolution or ordinance and in the call for bids for the contract, what is the prevailing hourly rate of wages in the locality for each type of workman needed to execute the contract and also the general prevailing rate for legal holiday and overtime work. It shall be mandatory upon the contractor to whom the contract is awarded and upon any subcontractor under him, to pay not less than the specified rates to all workmen employed by them in the execution of the contract. The public body awarding the contract shall cause to be inserted in the contract a stipulation to the effect that not less than the prevailing hourly rate of wages shall be paid to all workmen performing work under the contract. It shall also require in all contractor's bonds that the contractor include such provisions as will guarantee the faithful performance of the prevailing hourly wage clause as provided by contract. The contractor shall forfeit as a penalty to the state, county, city and county, city, town, district or other political subdivision on whose behalf the contract is made or awarded ten dollars for each workman employed, for each calendar day, or portion thereof, such workman is paid less than the said stipulated rates for any work done under said contract, by him or by any subcontractor under him, and the said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such public body awarding the contract, and its agents and officers, to take cognizance of all complaints of all violations of the provisions of sections 290.210 to 290.340 committed in the course of the execution of the contract, and, when making payments to the contractor becoming due under said contract, to withhold and retain therefrom all sums and amounts due and owing as a result of any violation of sections 290.210 to 290.340. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of said subcontractor's failure to comply with the terms of sections 290.210 to 290.340, and if payment has already been made to him, the contractor may recover from him the amount of the penalty in a suit at law.

(L. 1957 p. 574 § 4, A.L. 1969 S.B. 142)

**Determination of hourly rate for highways and transportation commission, when made, where filed, objections, hearing, determination.**

290.260. 1. The department, as it deems necessary, shall from time to time investigate and determine the prevailing hourly rate of wages in the localities. A determination applicable to every locality to be contained in a general wage order shall be made annually on or before July first of each year for the Missouri state highways and transportation commission and shall remain in effect until superseded by a new general wage order. In determining prevailing rates, the department shall ascertain and consider the applicable wage rates established by collective bargaining agreements, if any, and the rates that are paid generally within the locality.

2. A certified copy of the determination so made shall be filed immediately with the secretary of state and with the department in Jefferson City. Copies shall be supplied by the department to all persons requesting them within ten days after the filing.

3. At any time within thirty days after the certified copies of the determinations have been filed with the secretary of state and the department, any person who is affected thereby may object in writing to the determination or the part thereof that he deems objectionable by filing a written notice with the department, stating the specific grounds of the objection.

4. Within thirty days of the receipt of the objection, the department shall set a date for a hearing on the objection. The date for the hearing shall be within sixty days of the receipt of the objection. Written notice of the time and place of the hearing shall be given to the objectors at least ten days prior to the date set for the hearing.

5. The department at its discretion may hear each written objection separately or consolidate for hearing any two or more written objections. At the hearing the department shall first introduce in evidence the investigation it instituted and the other facts which were considered at the time of the original determination which formed the basis for its determination. The department, or the objector, or any interested party, thereafter may introduce any evidence that is material to the issues.

6. Within twenty days of the conclusion of the hearing, the department must rule on the written objection and make the final determination that it believes the evidence warrants. Immediately, the department shall file a certified copy of its final determination with the secretary of state and with the department and shall serve a copy of the final determination on all parties to the proceedings by personal service or by registered mail.

7. This final decision of the department of the prevailing wages in the locality is subject to review in accordance with the provisions of chapter 536, RSMo. Any person affected, whether or not the person participated in the proceedings resulting in the final determination, may have the decision of the department reviewed. The filing of the final determination with the secretary of state shall be considered a service of the final determination on persons not participating in the administrative proceedings resulting in the final determination.

8. At any time before trial any person affected by the final determination of the department may intervene in the proceedings to review under chapter 536, RSMo, and be made a party to the proceedings.

9. All proceedings in any court affecting a determination of the department under the provisions of sections 290.210 to 290.340 shall have priority in hearing and determination over all other civil proceedings pending in the court, except election contests.

(L. 1957 p. 574 § 8, A.L. 1965 p. 95, A.L. 1969 S.B. 142)

(1962) The function of the court in reviewing decision of industrial commission fixing hourly wage rate is to decide if the determination was authorized by law and supported by competent and substantial evidence upon the whole record. United Bro. of Carpenters, etc. v. Industrial Commission (A.), 363 S.W.2d 82.

**Determination of hourly rate by location and occupation title, when made, where filed--objections, hearings--final determination--notice to department by public body, when.**

290.262. 1. Except as otherwise provided in section 290.260, the department shall annually investigate and determine the prevailing hourly rate of wages in each locality for each separate occupational title. A final determination applicable to every locality to be contained in an annual wage order shall be made annually on or before July first of each year and shall remain in effect until superseded by a new annual wage order or as otherwise provided in this



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section. In determining prevailing rates, the department shall ascertain and consider the applicable wage rates established by collective bargaining agreements, if any, and the rates that are paid generally within the locality, and shall, by March tenth of each year, make an initial determination for each occupational title within the locality.

2. A certified copy of the initial determinations so made shall be filed immediately with the secretary of state and with the department in Jefferson City. Copies shall be supplied by the department to all persons requesting them within ten days after the filing.

3. At any time within thirty days after the certified copies of the determinations have been filed with the secretary of state and the department, any person who is affected thereby may object in writing to a determination or a part thereof that he deems objectionable by filing a written notice with the department, stating the specific grounds of the objection. If no objection is filed, the determination is final after thirty days.

4. After the receipt of the objection, the department shall set a date for a hearing on the objection. The date for the hearing shall be within sixty days of the receipt of the objection. Written notice of the time and place of the hearing shall be given to the objectors at least ten days prior to the date set for the hearing.

5. The department at its discretion may hear each written objection separately or consolidate for hearing any two or more written objections. At the hearing the department shall first introduce in evidence the investigation it instituted and the other facts which were considered at the time of the original determination which formed the basis for its determination. The department, or the objector, or any interested party, thereafter may introduce any evidence that is material to the issues.

6. Within twenty days of the conclusion of the hearing, the department shall rule on the written objection and make the final determination that it believes the evidence warrants. Immediately, the department shall file a certified copy of its final determination with the secretary of state and with the department and shall serve a copy of the final determination on all parties to the proceedings by personal service or by registered mail.

7. This final decision of the department of the prevailing wages in the locality for each occupational title is subject to review in accordance with the provisions of chapter 536, RSMo. Any person affected, whether or not the person participated in the proceedings resulting in the final determination, may have the decision of the department reviewed. The filing of the final determination with the secretary of state shall be considered a service of the final determination on persons not participating in the administrative proceedings resulting in the final determination.

8. At any time before trial any person affected by the final determination of the department may intervene in the proceedings to review under chapter 536, RSMo, and be made a party to the proceedings.

9. Any annual wage order made for a particular occupational title in a locality may be altered once each year, as provided in this subsection. The prevailing wage for each such occupational title may be adjusted on the anniversary date of any collective bargaining agreement which covers all persons in that particular occupational title in the locality in accordance with any annual incremental wage increases set in the collective bargaining agreement. If the prevailing wage for an occupational title is adjusted pursuant to this subsection, the employee's representative or employer in regard to such collective bargaining agreement shall notify the department of this adjustment, including the effective date of the adjustment. The adjusted prevailing wage shall be in effect until the next final annual wage order is issued pursuant to this section. The wage rates for any particular job, contracted and commenced within sixty days of the contract date, which were set as a result of the annual or revised wage order, shall remain in effect for the duration of that particular job.

10. In addition to all other reporting requirements of sections 290.210 to 290.340, each public body which is awarding a contract for a public works project shall, prior to beginning of any work on such public works project, notify the department, on a form prescribed by the department, of the scope of the work to be done, the various types of craftsmen who will be needed on the project, and the date work will commence on the project.

(L. 1993 H.B. 638)

### **Hourly wage must equal or exceed federal minimum wage.**

290.263. The hourly wages to be paid as prescribed in section 290.250 to workmen upon public works shall not be less than the minimum wage specified under Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(L. 1969 S.B. 142)

### **Wage rates posted, where.**

290.265. A clearly legible statement of all prevailing hourly wage rates to be paid to all workmen employed in order to execute the contract and employed on the construction of the public works shall be kept posted in a prominent and easily accessible place at the site thereof by each contractor and subcontractor engaged in the public works projects under the provisions of this law and such notice shall remain posted during the full time that any such workman shall be employed on the public works.

(L. 1969 S.B. 142)

### **Declaration as to prevailing wages final--maximum wages and hours not limited.**

290.270. The finding of the department ascertaining and declaring the prevailing hourly rate of wages shall be final for the locality, unless reviewed under the provisions of sections 290.210 to 290.340. Nothing in sections 290.210 to 290.340, however, shall be construed to prohibit the payment to any workman employed on any public work of more than the prevailing rate of wages. Nothing in sections 290.210 to 290.340 shall be construed to limit the hours of work which may be performed by any workman in any particular period of time.

(L. 1957 p. 574 § 7, A.L. 1969 S.B. 142)

### **Administration of oaths--subpoenas--enforcement of subpoenas.**

290.280. The authorized representative of the department may administer oaths, take or cause to be taken the depositions of witnesses, and require by subpoena the attendance and testimony of witnesses and the production of all books, records, and other evidence relative to any matter under investigation or hearing. The subpoena shall be signed and issued by the department's authorized representative. In case of failure of any person to comply with any subpoena lawfully issued under this section, or on the refusal of any witness to produce evidence or to testify to any matter regarding which he may be lawfully interrogated, the authorized representative of the department may proceed to enforce obedience to the subpoenas in the manner provided by section 536.077, RSMo, for administrative agencies. The authorized representative of the department shall have the power to certify to official acts.

(L. 1957 p. 574 § 9, A.L. 1961 p. 438)

### **Contractor's payroll records, contents--affidavit of compliance required--signs on motor vehicles and equipment, requirements-- temporary stationary sign, when--exception.**

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290.290. 1. The contractor and each subcontractor engaged in any construction of public works shall keep full and accurate records clearly indicating the names, occupations and crafts of every workman employed by them in connection with the public work together with an accurate record of the number of hours worked by each workman and the actual wages paid therefore. The payroll records required to be so kept shall be open to inspection by any authorized representative of the contracting public body or of the department at any reasonable time and as often as may be necessary and such records shall not be destroyed or removed from the state for the period of one year following the completion of the public work in connection with which the records are made.

2. Each contractor and subcontractor shall file with the contracting public body upon completion of the public work and prior to final payment thereon an affidavit stating that he had fully complied with the provisions and requirements of this chapter, and no public body shall be authorized to make final payment until such affidavit is filed therewith in proper form and order.

3. Each contractor and subcontractor engaged in any construction of public works shall have its name, acceptable abbreviation or recognizable logo and the name of the city and state of the mailing address of the principal office of the company, on each motor vehicle and motorized self-propelled piece of equipment which is used in connection with such public works project during the time the contractor or subcontractor is engaged on such project. The sign shall be legible from a distance of twenty feet but the size of the lettering need not be larger than two inches. In cases where equipment is leased or where affixing a legible sign to the equipment is impractical, the contractor may place a temporary stationary sign, with the information required pursuant to this subsection, at the main entrance of the construction project in place of affixing the required information on the equipment so long as such sign is not in violation of any state or federal statute, rule or regulation. Motor vehicles which are required to have similar information affixed thereto pursuant to requirements of a regulatory agency of the state or federal government are exempt from the provisions of this subsection.

4. The provisions of subsection 3 of this section shall not apply to construction of public works for which the contract awarded is in the amount of two hundred fifty thousand dollars or less.

(L. 1957 p. 574 § 5, A.L. 1969 S.B. 142, A.L. 1993 H.B. 416 & 417)

### **Actions for prevailing wages by workman authorized.**

290.300. Any workman employed by the contractor or by any subcontractor under the contractor who shall be paid for his services in a sum less than the stipulated rates for work done under the contract, shall have a right of action for double whatever difference there may be between the amount so paid and the rates provided by the contract together with a reasonable attorney's fee to be determined by the court, and an action brought to recover same shall be deemed to be a suit for wages, and any and all judgments entered therein shall have the same force and effect as other judgments for wages.

(L. 1957 p. 574 § 10, A.L. 1969 S.B. 142)

### **Rebates by workmen prohibited, exception.**

290.305. No person, firm or corporation shall violate the wage provisions of any contract contemplated in sections 290.210 to 290.340 or suffer or require any employee to work for less than the rate of wages so fixed, or violate any of the provisions contained in sections 290.210 to 290.340. Where workmen are employed and their rate of wages has been determined as provided in sections 290.210 to 290.340, no person, either for himself or any other person, shall request, demand or receive, either before or after such workman is engaged, that such workman pay back, return, donate, contribute, or give any part or all of said workman's wages, salary, or thing of value, to any person, upon the statement, representation, or understanding that failure to comply with such request or demand will prevent such workman from procuring or retaining employment, and no person shall, directly or indirectly, pay, request or authorize any other person to violate this section. This section does not apply to any agent or representative of a duly constituted labor organization acting in the collection of dues or assessments of such organization.

(L. 1969 S.B. 142)

### **Deductions from wages, agreement to be written, approval of public body required.**

290.315. All contractors and subcontractors required in sections 290.210 to 290.340 to pay not less than the prevailing rate of wages shall make full payment of such wages in legal tender, without any deduction for food, sleeping accommodations, transportation, use of small tools, or any other thing of any kind or description. This section does not apply where the employer and employee enter into an agreement in writing at the beginning of said term of employment covering deductions for food, sleeping accommodations, or other similar items, provided such agreement is submitted by the employer to the public body awarding the contract and the same is approved by such public body as fair and reasonable.

(L. 1969 S.B. 142)

### **Advertising for bids before prevailing wage is determined prohibited.**

290.320. No public body, officer, official, member, agent or representative authorized to contract for public works shall fail, before advertising for bids or contracting for such construction, to have the department determine the prevailing rates of wages of workmen for each class of work called for by the public works in the locality where the work is to be performed as provided in sections 290.210 to 290.340.

(L. 1969 S.B. 142)

### **Awarding contract or payment without prevailing wage determination prohibited.**

290.325. No public body, officer, official, member, agent or representative thereof authorized to contract for public works shall award a contract for the construction of such improvement or disburse any funds on account of the construction of such public improvement, unless such public body has first had the department determine the prevailing rates of wages of workmen for the class of work called for by such public works in the locality where the work is to be performed and such determination has been made a part of the specifications and contract for such public works.

(L. 1969 S.B. 142)

### **Convicted violators of sections 290.210 to 290.340 listed, effect of.**

290.330. The department after investigation, upon complaint or upon its own initiative, shall file with the secretary of state a list of the contractors and subcontractors who it finds have been prosecuted and convicted for violations of sections 290.210 to 290.340 and such contractor or subcontractor, or simulations thereof, shall be prohibited from contracting directly or indirectly with any public body for the construction of any public works or from performing any work on the same as a contractor or subcontractor for a period of one year from the date of the first conviction for such violation and for a period of three years from the date of each subsequent violation and conviction thereof. No public body shall award a contract for a public works to any contractor or subcontractor, or simulation thereof, during the time that its name appears on said list. The filing of the notice of conviction with the secretary of state shall be notice to all public bodies and their officers, officials, members, agents and representatives.

(L. 1969 S.B. 142)

**Notice of violation, failure to comply, attorney general shall sue, injunctive relief authorized.**

290.335. If it is found that a public body, contractor or subcontractor has not complied with any of the terms of sections 290.210 to 290.340, the department shall give notice of the precise violation in writing to such public body, contractor or subcontractor. Sufficient time may be allowed for compliance therewith as the department deems necessary. After the expiration of the time prescribed in said notice, the department may in writing inform the attorney general of the fact that such notice has been given and that the public body, contractor or subcontractor or the authorized representative or agent thereof to whom it was directed has not complied with such notice. Upon receipt thereof, the attorney general shall at the earliest possible time bring suit in the name of the state in the circuit court of the county in which such public body is located or where any such contractor or subcontractor is engaged in any public works to enjoin the award of such contract for a public works, or any further work or payments thereunder if the contract has been awarded, until the requirements of such notice are fully complied with. The court may issue a temporary restraining order with due notice to the defendant in such action. The plaintiff shall in any such injunctive action post an adequate bond to be set by the circuit judge. Upon final hearing thereof, if the court is satisfied that the requirements of the notice by the department to the defendant were not unreasonable or arbitrary, it shall issue an order enjoining the awarding of such contract for a public works, or any further work or payments thereunder if the contract has been awarded, until the notice is fully complied with. Such injunction shall continue operative until the court is satisfied that the requirements of such notice have been complied with and the court shall have and exercise with respect to the enforcement of such injunctions all the power in it in other similar cases. Both the plaintiff and defendant in such action have the same rights of appeal as are provided by law in other injunction proceedings.

(L. 1969 S.B. 142)

**Penalty for violation.**

290.340. Any officer, official, member, agent or representative of any public body, contractor or subcontractor who willfully violates and omits to comply with any of the provisions and requirements of sections 290.210 to 290.340 shall be punished for each violation thereof by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment. Each day such violation or omission continues shall constitute a separate offense as contemplated by this section.

(L. 1969 S.B. 142)

(1997) As used in this section, "willfully" means "knowingly." State v. Lee Mechanical Contractors, Inc., 938 S.W.2d 269 (Mo.banc 1997).



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
DIVISION OF LABOR STANDARDS

**PREVAILING WAGE PROJECT NOTIFICATION**

Mail, Fax or E-Mail to: Division of Labor Standards  
P.O. Box 449  
Jefferson City, MO 65102-0449

Phone: 573-751-3403  
Fax: 573-751-3721  
E-mail: laborstandards@dolir.mo.gov  
www.dolir.mo.gov/lr

The information below is being made as pursuant to Sections 290.210 through 290.340 and 290.550 through 290.580 REVISED STATUTES OF MISSOURI.

1. Date of Notification		2. Annual Wage Order No. Included in Bid Specifications	
3. Popular or Descriptive Name of Project			
4. Estimated project cost of completion (total construction contracts to be awarded) \$			
5. Exact Location of Project* *Specify name of <sup>1</sup> County and <sup>2</sup> City, Village or District			
County	City or Village		Township
6. Official Name of Public Body Soliciting Bids			
7. Name of Public Body or Agency Soliciting Bids			
O			
8. Anticipated Date for Soliciting or Advertising for Bids		9. Anticipated Date for Contract Awarding	
10. Proposed Date for Start of Work on Project		11. Estimated Date of Project Completion	
12. Will there be any Federal funds used in this contract?			
<input type="checkbox"/> Yes <input type="checkbox"/> No			
Your Name (Please Print)		Signature	
Title	Organization		Phone Number (Include Area Code)
Street	City	State	Zip Code

## **THE MISSOURI OCCUPATIONAL TITLE RULE IN THE CONSTRUCTION OF PUBLIC WATER DISTRIBUTION SYSTEMS: DETERMINING THE CORRECT WAGE RATE**

By Jim Boeckman, Division of Labor Standards

In Missouri, occupational titles are defined by rule. See 8 CSR 30-3.060. To determine the wage rate owed to a worker, the tasks performed by the worker must be identified. The tasks are then located in the rule, and the rate associated with that title is the rate owed.

The Division of Labor Standards has consistently maintained that the installation of pressurized pipe includes all tasks necessary to complete the project that are not part of any other occupational title definition. This standard is simple to apply. A contractor should review the occupational titles for the task being performed by the worker and pay the wage rate that corresponds to the title where the task is found.

The Division's basic premise is that a task is paid the wage rate for the occupational title in which it is found. If a specific task in the pressurized pipe installation process is not found in any other occupational title, then it falls under the definition of installation in the occupational title of pipe fitter.

Although we recognize that this may not be a complete list of tasks for the installation of pressurized pipe, the following tasks fall under the occupational titles listed below:

<b>Task</b>	<b>Occupational Title</b>
Unloading pipe from a truck by hand, either along the trench or at a stock pile	Laborer
Unloading pipe with machinery (i.e., backhoe)	Operating Engineer
Moving of pipe from one location to another with machinery	Operating Engineer
Digging of the trench with machinery (i.e., backhoe)	Operating Engineer
Digging of the trench by hand	Laborer
Handling of the pipe by machine	Operating Engineer
Rigging of pipe, connecting or disconnecting, in a sling from either a truck or to place in the trench	Pipe Fitter
Placement of the pipe in a trench, other than by use of a machine	Pipe Fitter
Guiding, lubricating/soaping, installation of gaskets, and polywrapping of pipe	Pipe Fitter
Alignment, proper elevation, and joining/connecting pipe	Pipe Fitter
Back filling or adding gravel to the trench by hand	Laborer
Back filling with machinery (i.e., backhoe)	Operating Engineer

The Division does not differentiate between work being performed inside or outside of the trench to define which tasks are part of installation.

Any other work involved in the project to install pressurized pipe from the time of initial award of the bid until completion that is not specifically identified in another occupational title is considered to be a part of installation under the occupational title of pipe fitter.

Work in connection with nonpressurized pipelines that is not specifically identified in another occupational title is considered to fall within the occupational title of general laborer.

Workers are to be paid the appropriate wage rate for the type of work performed. A worker's pay rate may vary throughout the day if he or she performs tasks that fall under multiple occupational titles. Certified payroll records should list, among other things, the occupational title(s) and the number of hours the task was performed by the worker. Overtime situations will be looked at on a case-by-case basis, but normally the appropriate overtime rate should be paid at the rate based on the type of work being performed when the overtime hours are worked.

The Missouri Prevailing Wage Law and Rules can be found on the web at [www.dolir.mo.gov/lr](http://www.dolir.mo.gov/lr). Requests for copies of brochures and any questions you may have can be directed to the Division of Labor Standards by calling 1-800-475-2130.



# NOTICE TO ALL EMPLOYEES

## Working on Federal or Federally Financed Construction Projects

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### MINIMUM WAGES

You must be paid not less than the wage rate in the schedule posted with this Notice for the kind of work you perform.

### OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 a week. There are some exceptions.

### APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

### PROPER PAY

If you do not receive proper pay, contact the Contracting Officer listed below:

**Missouri Dept. of Economic Development  
BCS Compliance Team  
PO Box 118  
Jefferson City, MO 65102-0118  
Phone: (573) 751-3600**

or you may contact the nearest office of the Wage and Hour Division, U.S. Department of Labor. The Wage and Hour Division has offices in several hundred communities throughout the country. They are listed in the U.S. Government section of most telephone directories under:  
**U.S. Department of Labor  
Employment Standards Administration**





# Equal Employment Opportunity is THE LAW

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## Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a Federal government contract or subcontract are protected under the following Federal authorities:

### **RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**

Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

### **INDIVIDUALS WITH DISABILITIES**

Section 503 of the Rehabilitation Act of 1973, as amended, prohibits job discrimination because of disability and requires affirmative action to employ and advance in employment qualified individuals with disabilities who, with reasonable accommodation, can perform the essential functions of a job.

### **VIETNAM ERA, SPECIAL DISABLED, RECENTLY SEPARATED, AND OTHER PROTECTED VETERANS**

38 U.S.C. 4212 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, prohibits job discrimination and requires affirmative action to employ and advance in employment qualified Vietnam era veterans, qualified special disabled veterans, recently separated veterans, and other protected veterans.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP), Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 or call (202) 693-0101, or an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.

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## Private Employment, State and Local Governments, Educational Institutions

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under the following Federal laws:

### **RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**

Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex or national origin.

### **DISABILITY**

The Americans with Disabilities Act of 1990, as amended, protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability. The law also requires that covered entities provide qualified applicants and employees with disabilities with reasonable accommodations that do not impose undue hardship.

### **AGE**

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination on the basis of age in hiring, promotion, discharge, compensation, terms, conditions or privileges of employment.

### **SEX (WAGES)**

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act of 1964, as amended (see above), the Equal Pay Act of 1963, as amended, prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same establishment.

Retaliation against a person who files a charge of discrimination, participates in an investigation, or opposes an unlawful employment practice is prohibited by all of these Federal laws.

If you believe that you have been discriminated against under any of the above laws, you should contact immediately:

The U.S. Equal Employment Opportunity Commission (EEOC), 1801 L Street, N.W., Washington, D.C. 20507 or an EEOC field office by calling toll free (800) 669-4000. For individuals with hearing impairments, EEOC's toll free TDD number is (800) 669-6820.

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## Programs or Activities Receiving Federal Financial Assistance

### **RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX**

In addition to the protection of Title VII of the Civil Rights Act of 1964, as amended, Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal assistance.

### **INDIVIDUALS WITH DISABILITIES**

Sections 501, 504 and 505 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance in the federal government. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with reasonable accommodation, can perform the essential functions of a job.

If you believe you have been discriminated against in a program of any institution which receives Federal assistance, you should contact immediately the Federal agency providing such assistance.

# La Igualdad De Oportunidades De Empleo Es

# LA LEY

## Empleadores con Contratos o Subcontratos Federales

Solicitantes de empleo y empleados de compañías privadas que tienen un contrato o subcontrato federal son protegidos por las siguientes autoridades federales:

### **RAZA, COLOR, RELIGION, SEXO, ORIGEN NACIONAL**

La Orden del Poder Ejecutivo 11246, según enmendada, prohíbe la discriminación en el empleo por razón de raza, color, religión, sexo u origen nacional, y requiere programas de acción afirmativa para asegurar la igualdad de oportunidades en todos los aspectos de empleo.

### **INDIVIDUOS CON IMPEDIMENTOS**

La Sección 503 de la Ley de Rehabilitación de 1973, según enmendada, prohíbe la discriminación en el empleo por razón de impedimento y requiere programas de acción afirmativa en la contratación y ascenso de personas calificadas con impedimentos que, con comodidad razonable, pueden desempeñar las funciones esenciales del empleo.

### **VETERANOS DE LA ERA DE VIETNAM, VETERANOS CON IMPEDIMENTOS ESPECIALES, Y OTROS VETERANOS PROTEGIDOS**

38 U.S.C. 4212 de la Ley de Asistencia para la Readaptación de los Veteranos de Vietnam prohíbe la discriminación en el empleo y exige programas de acción afirmativa en la contratación y ascenso de veteranos calificados de Vietnam y de veteranos calificados con impedimentos especiales.

Cualquier persona que crea que un contratista no ha cumplido con sus obligaciones referentes a la no discriminación o los programas de acción afirmativa bajo las leyes anteriormente mencionadas debe comunicarse de inmediato con:

The Office of Federal Contract Compliance Programs (OFCCP), Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 o llamar al (202) 693-0101, o una oficina regional o de distrito del OFCCP listado bajo el título U.S. Government, Department of Labor.

## Empleadores Privados, Gobiernos Estatales y Locales, Instituciones de Enseñanza

Las siguientes leyes federales protegen solicitantes de empleo y empleados de la mayoría de los empleadores privados, gobiernos estatales y locales, instituciones de enseñanza, agencias de empleo y organizaciones laborales:

### **RAZA, COLOR, RELIGION, SEXO, ORIGEN NACIONAL**

El Título VII de la Ley de Derechos Civiles de 1964, según enmendada, prohíbe la discriminación en el empleo por razón de raza, color, religión, sexo u origen nacional en la contratación, promoción, despido, pago, beneficios suplementarios, programas de adiestramiento, clasificación de empleo, reclutamiento y bajo cualquier otro término y condición de empleo.

### **IMPEDIMENTO**

La Ley para Personas con Impedimentos de 1990, según enmendada, protege solicitantes de empleados y empleados contra la discriminación en la contratación, promoción, despido, pago, programas de adiestramiento, beneficios suplementarios, clasificación, asignación, y otros aspectos de empleo por razón de impedimento. La ley también exige que toda entidad comprendida proporcione a solicitantes de empleo y empleados calificados con impedimentos comodidad razonable al menos que esto cause dificultad excesiva.

### **EDAD**

La Ley Contra la Discriminación en el Empleo por Razón de Edad de 1967, según enmendada, protege solicitantes de empleo y empleados de 40 años de edad o más de la discriminación en el empleo por razón de edad en la contratación, promoción, despido, pago, y bajo cualquier otro término, condición o privilegio de empleo.

### **SEXO (PAGO)**

Además del Título VII de la Ley de Derechos Civiles de 1964 (anteriormente descrita), la Ley de Igualdad en el Pago de 1963, según enmendada, prohíbe la discriminación por razón de sexo en el pago de salario a mujeres y hombres que realizan trabajos sustancialmente iguales en el mismo lugar de trabajo.

Tomar represalia contra una persona que haya presentado una denuncia de discriminación, participe en una investigación, o se oponga a una práctica ilegal de empleo es prohibido por todas estas leyes federales.

Si usted cree que ha sido discriminado bajo cualquiera de las leyes descritas, debe comunicarse de inmediato con:

La Comisión de Igualdad de Oportunidades de Empleo (EEOC), 1801 L Street, N.W., Washington, D.C. 20507 o con una oficina local de la Comisión llamando gratuitamente al (800) 669-4000. Para personas con impedimentos auditivos, el número sin cargo de la Comisión por el sistema TDD es (800) 669-6820.

## Programas o Actividades que Reciben Subsidios Federales

### **RAZA, COLOR, ORIGEN NACIONAL, SEXO**

Además del amparo que brinda el Título VII de la Ley de Derechos Civiles de 1964, el Título VI de la ley prohíbe la discriminación por razón de raza, color, u origen nacional en programas o actividades que reciben subsidios federales. Discriminación en el empleo está comprendida bajo el Título VI si el objetivo primordial del subsidio es proporcionar empleos y en los casos en que la discriminación en el empleo causa o podría causar discriminación en la prestación de servicios de esos programas. El Título IX de las Enmiendas de Educación de 1972 prohíbe la discriminación en el empleo por razón de sexo en programas o actividades educacionales que reciben subsidios federales.

### **INDIVIDUOS CON IMPEDIMENTOS**

La Sección 504 de la Ley de Rehabilitación de 1973, según enmendada, prohíbe la discriminación en el empleo por razón de impedimentos en cualquier programa o actividad que recibe subsidios del gobierno federal. Se prohíbe la discriminación en todas las modalidades de empleo contra personas con impedimentos físicos y mentales que, con comodidad razonable, pueden desempeñar las funciones esenciales del empleo.

Si usted cree que ha sido discriminado en el empleo en un programa de cualquier institución que recibe subsidios federales, debe comunicarse de inmediato con la agencia federal que otorga el subsidio.



# You Have a Right to a Safe and Healthful Workplace. **IT'S THE LAW!**

- You have the right to notify your employer or OSHA about workplace hazards. You may ask OSHA to keep your name confidential.
- You have the right to request an OSHA inspection if you believe that there are unsafe and unhealthful conditions in your workplace. You or your representative may participate in the inspection.
- You can file a complaint with OSHA within 30 days of discrimination by your employer for making safety and health complaints or for exercising your rights under the *OSH Act*.
- You have a right to see OSHA citations issued to your employer. Your employer must post the citations at or near the place of the alleged violation.
- Your employer must correct workplace hazards by the date indicated on the citation and must certify that these hazards have been reduced or eliminated.
- You have the right to copies of your medical records or records of your exposure to toxic and harmful substances or conditions.
- Your employer must post this notice in your workplace.



The *Occupational Safety and Health Act of 1970 (OSH Act)*, P.L. 91-596, assures safe and healthful working conditions for working men and women throughout the Nation. The Occupational Safety and Health Administration, in the U.S. Department of Labor, has the primary responsibility for administering the *OSH Act*. The rights listed here may vary depending on the particular circumstances. To file a complaint, report an emergency, or seek OSHA advice, assistance, or products, call 1-800-321-OSHA or your nearest OSHA office: • Atlanta (404) 562-2300 • Boston (617) 565-9860 • Chicago (312) 353-2220 • Dallas (214) 767-4731 • Denver (303) 844-1600 • Kansas City (816) 426-5861 • New York (212) 337-2378 • Philadelphia (215) 861-4900 • San Francisco (415) 975-4310 • Seattle (206) 553-5930. Teletypewriter (TTY) number is 1-877-889-5627. To file a complaint online or obtain more information on OSHA federal and state programs, visit OSHA's website at [www.osha.gov](http://www.osha.gov). If your workplace is in a state operating under an OSHA-approved plan, your employer must post the required state equivalent of this poster.

## 1-800-321-OSHA [www.osha.gov](http://www.osha.gov)

U.S. Department of Labor • Occupational Safety and Health Administration • OSHA 3165

## Usted Tiene el Derecho a un Lugar de Trabajo Seguro y Saludable.


# ¡LO ESTABLECE LA LEY!

- Tiene el derecho de notificar a su empleador o a la OSHA sobre cualquier peligro en su lugar de trabajo. Puede pedir a la OSHA que mantenga su nombre en reserva.
- Tiene el derecho de solicitar una inspección de la OSHA si considera que existen condiciones peligrosas y poco saludables en su lugar de trabajo. Usted o su representante puede participar en la inspección.
- Puede presentar un reclamo a OSHA durante un plazo de 30 días si su empleador lo discrimina por presentar reclamos de seguridad y sanidad o por ejercer sus derechos de acuerdo con la Ley.
- Tiene el derecho de ver las citaciones de la OSHA enviadas a su empleador. Su empleador debe colocar las citaciones en un lugar visible en el sitio de la supuesta infracción o cerca de él.
- Su empleador debe corregir los peligros en el lugar de trabajo dentro del plazo indicado en la citación y debe certificar que dichos peligros se hayan reducido o eliminado.
- Tiene el derecho de recibir copias de su historial médico o de los registros de su exposición a sustancias o condiciones tóxicas y peligrosas.
- Su empleador debe colocar este aviso en un lugar visible de su lugar de trabajo.



La Ley de Seguridad y Salud Ocupacionales de 1970 (la Ley), P.L. 91-596, garantiza condiciones ocupacionales seguras y saludables para los hombres y las mujeres que desempeñen algún trabajo en toda la Nación. La Administración de Seguridad y Salud Ocupacionales (OSHA), dependiente del Departamento del Trabajo de los Estados Unidos, es la responsable principal de supervisar la Ley. Los derechos que se indican en este documento pueden variar según las circunstancias particulares. Para presentar un reclamo, informar sobre una emergencia o pedir consejo, asistencia o productos de la OSHA, llame al 1-800-321-OSHA o a la oficina de la OSHA más cercana a usted: • Atlanta (404) 562-2300 • Boston (617) 565-9860 • Chicago (312) 353-2220 • Dallas (214) 767-4731 • Denver (303) 844-1600 • Ciudad de Kansas (816) 426-5861 • Nueva York (212) 337-2378 • Filadelfia (215) 861-4900 • San Francisco (415) 975-4310 • Seattle (206) 553-5930. El número TTY es 1-877-889-5627. Para presentar un reclamo en línea u obtener más información sobre los programas federales y estatales de la OSHA, visite el sitio Web de la OSHA en [www.osha.gov](http://www.osha.gov). Si su lugar de trabajo se encuentra en un estado que funciona según un plan aprobado por la OSHA, su empleador debe colocar en un sitio visible el equivalente estatal de este afiche.

# 1-800-321-OSHA [www.osha.gov](http://www.osha.gov)

Departamento del Trabajo de los E.E. UU.  • Administración de Seguridad y Salud Ocupacionales • OSHA 3167

**\*\*LABOR STANDARDS HELPFUL HINTS\*\***

- ❖ Review each payroll to determine that correct wages were paid prior to submitting an RFF for payment to the contractor.
- ❖ Make sure the correct Federal wage decision and State Wage Order are in the bid packets.
- ❖ Know the specific Federal and State rules regarding owner/operators.
- ❖ Scheduling pre-bid and pre-construction meetings can prevent many problems.
- ❖ If payrolls indicate that wage restitution is necessary, immediately initiate the actions described on page VI-7.
- ❖ The longer a labor-related problem remains unaddressed, the more difficult it becomes to resolve. The Compliance Team staff offers technical assistance to all parties involved with the various facets of labor standards requirements. .